

# **Applying the 7-C Protocol to assess the implementation of immigration policies in the Department of Home Affairs: A case study**

by

Joseph Sanna Skhosana

*Thesis presented in partial fulfilment of the requirements for the degree  
Masters in Public Administration in the faculty of Management Science  
at Stellenbosch University*



Supervisor: Prof Christo de Coning

December 2019

## **Declaration**

By submitting this thesis electronically, I, Joseph Sanna Skhosana, declare that the entirety of the work contained therein is my own, original work, that I am the sole author thereof (save to the extent explicitly otherwise stated), that reproduction and publication thereof by Stellenbosch University will not infringe any third party rights and that I have not previously in its entirety or in part submitted it for obtaining any qualification.

Date: December 2019

Copyright © 2019 Stellenbosch University

All rights reserved

## Abstract

The aim of this research is to assess the implementation of immigration policies by applying the 7-C Protocol in the Department of Home Affairs (DHA) Immigration Services. The DHA is mandated with the responsibility to implement immigration policies. However, immigration policies have limitations that affect the country's ability to adequately embrace global opportunities while maintaining public safety and national security. Immigration policies are aimed at assisting the government in knowing who is in the country and why, and their effective implementation is critical in a globalised world characterised by, for example, rapid movements of people, goods and epidemics.

This research included a literature review based on public policies but, more specifically, on their implementation. The literature review revealed the complexities of policy implementation and how ignoring the variables of the 7-C Protocol, namely Content, Context, Commitment, Capacity, Clients/Coalitions, Communication and Coordination, could lead to the failure of policy implementation. The literature review also showed that policy implementation does not exist in isolation. This research gives an overview of the South African legislative framework, which guides and informs immigration policies. In this research, the focus is on the Constitution of the Republic of South Africa (1996), the Immigration Act (2002) and the Refugees Act (1998).

The research provides the background to the evolution of immigration policies, with various amendments effected in South African immigration legislation post 1994. Moreover, the research highlights the challenges and complexities of implementing immigration policies, including resource constraints, administrative capacity and coordination problems. The research was both empirical and non-empirical, and non-probability purposive sampling was utilised to select participants from the following Immigration Directorates: Permits, Inspectorate, the Refugees Reception Office and Policy Development. Interviews and a questionnaire was used to collect raw data that were analysed. The findings revealed a lack of administrative capacity; inadequate political and managerial support; poor relations with clients/coalitions; and ineffective intra-organisational communication. Recommendations were made on how to improve better policy implementation by applying the 7-C Protocol instrument and for further research in immigration policies.

## Opsomming

Die navorsing assesseer die implementering van die immigrasiebeleid deur die toepassing van die 7-C Protokol in die Departement van Binnelandse Sake (DBS) Immigrasie Dienste. Die DBS is daartoe verbind om die immigrasie beleid te implementeer. Die immigrasie beleid het egter beperkinge wat die land se vermoë om globale geleenthede behoorlik aan te gryp terwyl die openbare veiligheid en nationale veiligheid behou word, beïnvloed.

Die immigrasiebeleid is daarop gemik om die regering te help om te bepaal wie in die land is en hoekom. Die effektiewe implementering van die beleid is krities in 'n geglobaliseerde wêreld wat gekenmerk word deur byvoorbeeld vinnige beweging van mense, goedere en epidemies.

Hierdie navorsing bevat 'n literatuuroorsig gebaseer op openbare beleid, maar meer spesifiek op die implementering daarvan. Die kompleksiteit van beleidsimplementering word in die literatuuroorsig getoon asook die gevolg wanneer die veranderlikes van die 7-C Protokol naamlik inhoud, konteks, toewyding, kapasiteit, kliente of koalisie en vennote geïgnoreer word.

Kommunikasie en koördinerings in 'n organisasie kan lei tot die mislukking van beleidsimplementering aangesien die literatuuroorsig ook getoon het dat beleidsimplementering nie in isolasie plaasvind. Hierdie studie gee 'n oorsig van die Suid-Afrikaanse wetgewende raamwerk wat die immigrasie beleid inlig en stuur. In hierdie navorsing is die fokus op die Grondwet van die Republiek van Suid-Afrika (1996), die Immigrasie Wet (Wet No. 13 van 2002), die Wet op Vluchtelingen, 1998 (Wet No. 130 van 1998).

Die navorsing verskaf die agtergrond vir die evolusie van die immigrasiebeleid met verskeie wysigings wat gemaak word in Suid-Afrikaanse immigrasiewetgewing na 1994. Verder beklemtoon die navorsing die uitdagings en kompleksiteit van implementering in die aanspreek van beleide, insluitend hulpbronbeperking, administratiewe kapasiteit en koördineringsprobleme.

Die navorsing was beide emperies en nie-emperies, en nie-waarskynlikheid doelbewuste steekproefneming is aangewend om deelnemers uit die volgende Immigrasie Direkoraat: Permitte, Inspektoraat, die Vluchtelingskantoor en Beleidsontwikkeling. Onderhoude en 'n vraelys is gebruik om alle data wat geanaliseer is, te versamel. Die bevindings deur 'n gebrek aan administratiewe kapasiteit; onvoldoende politieke en bestuursondersteuning; swak verhoudings

met kliënte en koalisie vennote en ondoeltreffende intra-organisatoriese kommunikasie aan. Aanbevelings is gemaak oor hoe om beleidsimplementering te verbeter deur die 7-C Protokol instrument toe te pas.

## **Acknowledgement**

I extend my sincere praise and honour to the almighty God for leading me throughout this journey. It was not easy, but it was worth it.

My appreciation also goes to Professor Christo De Coning my supervisor, for his guidance and contributions towards the successful completion of my study. I still remember his powerful words when he said “we shall win”. Your motivation was a constant reminder that I must complete the research no matter what.

To my lovely wife, Ms Nurse Meisie Skhosana, I also extend my greatest appreciation for her unwavering support, belief and confidence in me in times of self-doubt. To my three handsome sons, Mthokozisi, Mfundo and Msizi, I also appreciate your understanding when, at times, daddy was not available for lunch, supper and other important family activities.

To my classmate and friend Ms Adelaide Masemola, I would like to say, I am indebted to you for your continued support and inspiration. I also like to extend my appreciation to all participants who took part in this research. Your contribution and inputs have been highly valuable. I would also like to thank the Directorate: Research and Information Management for facilitating my application to conduct this research at the DHA. Lastly, I am thankful to the Human Resources Management and Development branch at the DHA for granting me permission to conduct this study.

## **Dedication**

My thesis is dedicated to my parents, Mr. Phillip and Mrs. Nelly Skhosana. I say to them, to God be the glory for the sacrifices they have made in order for me to achieve my educational goals. I thank God for keeping them alive to see this wonderful day of my great academic achievement.

# Table of Contents

<b>Declaration.....</b>	<b>ii</b>
<b>Abstract.....</b>	<b>iii</b>
<b>Opsomming.....</b>	<b>iv</b>
<b>Acknowledgement.....</b>	<b>vi</b>
<b>Dedication.....</b>	<b>vii</b>
<b>Table of Contents.....</b>	<b>vii</b>
<b>List of Tables.....</b>	<b>x</b>
<b>List of Figures.....</b>	<b>x</b>
<b>List of Addendums.....</b>	<b>x</b>
<b>List of Abbreviations and acronyms.....</b>	<b>xi</b>
<b>Chapter 1: Introduction to the study.....</b>	<b>1</b>
1.1.    Introduction.....	1
1.2.    Background and rationale.....	3
1.3.    Problem statement.....	7
1.4.    Research aim.....	8
1.5.    Research question.....	8
1.6.    Research objectives.....	8
1.7.    Research design.....	9
1.8.    Methodology.....	10
1.9.    Sampling.....	10
1.10.   Conclusion.....	11
<b>Chapter 2: literature review.....</b>	<b>12</b>
2.1    Introduction.....	12
2.2    The concept of public policy and policy implementation.....	14
2.3    Top-Down versus Bottom-Up policy paradigms.....	18
2.4    The complexity of implementation.....	21
2.5    The 7-C Protocol.....	22
2.6    Conclusion.....	34
<b>Chapter 3: Legislation and implementation frameworks for immigration policies in South Africa</b>	<b>36</b>
3.1    Introduction.....	36
3.2    The policy making process.....	37
3.3    DHA- Strategic Plan 2015-2020.....	39
3.4    The Constitution of the Republic of South Africa (1996).....	41



3.5	The development of immigration policies .....	43
3.6	The Green Paper (1997) and White Paper (1999) on International Migration.....	44
3.7	The White Paper on International Migration (2017).....	45
3.8	Immigration Legislation .....	46
3.8.1	The Immigration Act No.13 of 2002 .....	46
3.8.2	The Immigration Amendment Act No. 19 of 2004. ....	48
3.8.3	The Immigration Amendment Act No. 03 of 2007 and Immigration Amendment Act No. 13 of 2011 .....	49
3.9	The development of Refugee policy .....	50
3.9.1	The Conventions on Refugees .....	50
3.9.2	The Refugees White Paper (1998) .....	51
3.9.3	The Refugees Act No. 130 of 1998 .....	51
3.9.4	The Refugees Amendment Act No. 33 of 2008 .....	54
3.9.5	The Refugees Amendment Act No.12 of 2011 .....	55
3.9.6	The Draft Refugees Amendment Bill of 2015 .....	55
3.10	Amnesty and undocumented migrants.....	57
3.11	Conclusion .....	58
Chapter 4: Case Perspective of challenges of immigration policies in South Africa post 1994. ....		60
4.1	Introduction.....	60
4.2	Migrant mobility in contemporary South Africa .....	61
4.3	Stakeholders in the implementation of immigration policies.....	62
4.4	Governance issues on implementation challenges.....	64
4.4.1	Institutional challenges in managing immigration.....	64
4.4.2	The role of law enforcement on irregular migrants.....	69
4.5	Conclusion .....	70
Chapter 5: Research Methodology .....		72
5.1	Introduction.....	72
5.2	Research Design .....	72
5.3	Research Methodology .....	73
5.4	Study Population.....	74
5.5	Limitation of the Study.....	76
5.6	Data Collection .....	76
5.7	Data Analysis.....	77
5.8	Reason for selecting the 7-C Protocol as an instrument for assessment .....	77
5.9	Ethical Considerations.....	78

5.10	Conclusion .....	78
Chapter 6: Research Findings and Analysis.....		80
6.1	Introduction.....	80
6.2	The 7-C Protocol .....	81
6.2.1	The Content of policy in implementation (Protocol No. 1).....	81
6.2.2	The institutional context in policy implementation (Protocol No. 2).....	86
6.2.3	Commitment to implement policy (Protocol No.3) .....	88
6.2.4	Capacity to implement policy (Protocol No. 4).....	90
6.2.5	The role of Clients/Coalitions to implement policy (Protocol No. 5) .....	94
6.2.6	Communication around policy implementation (Protocol No. 6).....	96
6.2.7	Coordination policy implementation (Protocol No. 7) .....	99
6.3	Research Findings and Analysis .....	103
Chapter 7: Conclusion and Recommendations .....		116
7.1	Introduction.....	116
7.2	Recommendations .....	117
7.2.1	Recommendation 1: Orientation of DHA Officials on the content of immigration policies.....	117
7.2.2	Recommendation 2: Management of asylum seekers and refugees .....	118
7.2.3	Recommendation 3: Improve commitment to implementation .....	119
7.2.4	Recommendation 4: Strengthen capacity .....	120
7.2.5	Recommendation 6: Develop active participation with clients/coalitions.....	121
7.2.6	Recommendation 7: Establish effective communication channels .....	122
7.2.7	Recommendation 8: Improve coordination with stakeholders .....	123
7.3	Conclusion .....	123
7.4	Further Research on this topic is possible. ....	124
8	References.....	125
Annexure A: Consent form .....		132
Annexure B: Research Questionnaire.....		135
Annexure C: Interview Schedule.....		143

## List of Tables

Table 1: Roles and Responsibilities of Chief Directorates.....	4
Table 2: Types of irregular migrants.....	6
Table 3: Stakeholders in the implementation of immigration policies.....	62
Table 4: Sample Size.....	76

## List of Figures

Figure: 1.1 Immigration Services Directorate.....	3
Figure: 2.1 Interactive Model of Implementation.....	20
Figure 3.1: Phases of the generic policy process model.....	38
Figure 3.2: Refugee status application process.....	56
Figure 4.1: Funded positions at the DHA 31 March 2017.....	65
Figure 4.2: Funded position at the DHA 31 March 2018.....	65
Figure 6.1: Immigration objectives.....	83
Figure 6.2: Capacity to implement immigration policies.....	92
Figure 6.3 The 7-C Protocol as instrument of assessment.....	104

## List of Addendums

1. Annexure A: Informed consent.....	131
2. Annexure B: Research Questionnaire.....	134
3. Annexure C: Interview Schedule .....	142

## List of Abbreviations and acronyms

ACA	Aliens Control Act
ACMS	African Centre for Migration and Society
ANC	African National Congress
BMA	Border Management Authority
CD	Chief Director
CDE	Centre for Development and Enterprise
DDG	Deputy Director General
DG	Director General
DHA	Department of Home Affairs
DIRCO	Department of International Relation and Cooperation
eMCS	Enhanced Movement Control System
MoU	Memorandum of Understanding
NA	National Assembly
NDP	National Development Plan
NGO	Non-Governmental Organisation
NIIS	National Immigration Information System
OAU	Organisation of African Union
RRO	Refugee Reception Office
RSDO	Refugee Status Determination Officer
RSA	Republic of South Africa
SADC	Southern African Development Community

SAHRC	South African Human Rights Commission
SAMP	Southern African Migration Project
SAPS	South African Police Services
SCRA	Standing Committee on Refugees Affairs
SIHMA	Scalabrini Institute for Human Mobility in Africa
SMARTe	Specific, Measurable, Achievable, Realistic, Traceable and Enforceable
SOPs	Standard Operating Procedures
UN	United Nations
UNHCR	United Nations Human Commissioner for Refugees

# Chapter 1: Introduction to the study

## 1.1. Introduction

In the 21<sup>st</sup> Century, migration have become one of the defining issues, and is an essential and potentially beneficial component that can assist nations to improve its economies and social life. What should therefore be investigated is no longer whether migration should be accepted, instead, how to manage it effectively in order to fully exploit the benefits and reduce the negative effects (McKinley, 2006: 1). Many states perceive international migration<sup>1</sup> as a global challenge affecting many nations, and its governance sometimes represents a serious controversial policy matter that is normally difficult to achieve (Carciotto & Mavura, 2016: 4).

Good public policies are a requirement by governments and a correct implementation policy plan is crucial for the development and the nurturing of the country's economy and other developmental goals (Tebele, 2016:1). Cloete, et al. (2018:206) identify the interlinked clusters of the 7-C Protocol as a catalyst for understanding public policy implementation. These clusters are an extension of the previous 5-C Protocol, which now includes the two C's: Communication and Coordination. Thus, the 7-C Protocol includes the following: Content, Context, Commitment, Capacity, Clients/Coalitions, Communication and Coordination. The 7-C Protocol is discussed in detail in Chapter 2 of this research.

In 2014, the government of South Africa through the DHA's Immigration Services started the process of reviewing immigration legislation with the intention of creating a new comprehensive immigration policy that will be able to synthesise security, development and international obligations (RSA: 2017). As a result of this process, a White Paper on International Immigration (2017) was released and adopted by Cabinet on 29 March 2017 (DHA-Annual report, 2016-2017:82). The adopted White Paper (2017) paved the way for the process of overhauling current immigration policies to suit current local and international needs.

---

<sup>1</sup> International migration has the same meaning as immigration.

The problem is that immigration policies are often not implemented owing to the failure of those responsible for policy development and implementation “to strike a balance between the needs of different groups with vested interests, including private enterprise, trade unions, business association and civil society groups, who all pursue their own personal interest” (Carciotto & Mavura, 2016:4).

South Africa as one of the largest economies in Africa attracts many immigrants seeking better economic opportunities. However, these immigrants may not all possess skills the economy needs. Moreover, South Africa attracts tourists as visitors, but once they are in the country, they may not want to return to their countries of origin (Centre for Development and Enterprise, 2011:3). This may present a challenge to Immigration Services as they are expected to deal with a large number of illegal and undocumented migrants in the country. As a result, inefficiencies in the administration of immigration policy implementation are reported, including delays in the issuance of visas and permits outside the expected turnaround times (CDE, 2011:3).

International migration policies are capable of introducing special criteria restricting or encouraging the access of certain classes of migrants to the territory or state. However, policies might be inadequate if they do not clearly determine the patterns, and volumes of human mobility. “A lack of in-depth understanding of the determinants of international migration policies, coupled with the fact that research in general is neglected by policy makers, constitutes a challenge to the process of good policy formulation in migration” (Carciotto & Mavura, 2016: 4).

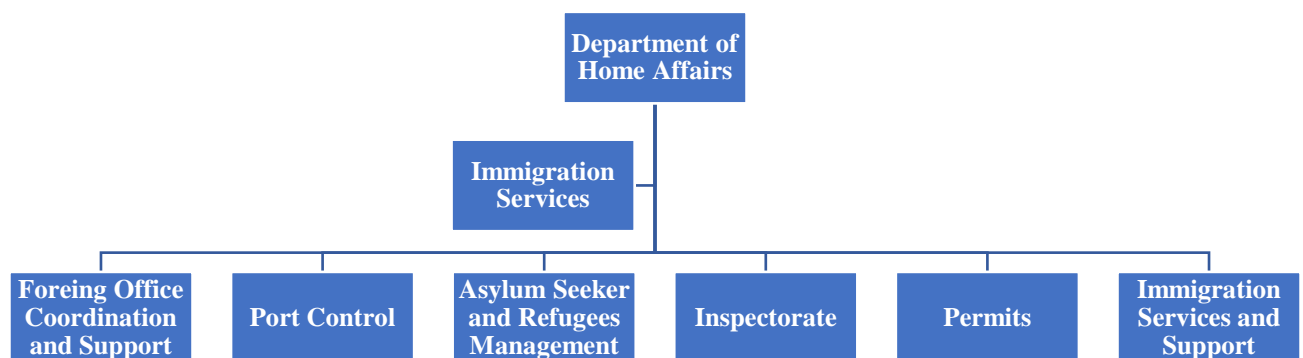
This research, located within the field of public policy in public administration, seeks to contribute to public policy theory, in particular policy implementation in social research. The research will attempt to contextualise the application of the 7-C Protocol to immigration policy implementation at the DHA. In addition, legislation within the field of immigration will be analysed, including the Constitution of the Republic of South Africa (1996), the Immigration Act No 13 of 2002 and the Refugees Act No 130 of 1998 as the primary legal instruments that make provision for immigration. The Green Paper (1998) and White Papers (1999 and 2017) on immigration policies will also be examined.

## 1.2. Background and rationale

The DHA has the sole legal mandate to be “the custodian, protector and verifier of the identity and status of citizens and other persons resident in South Africa as recorded on the National Population Register, and this includes the issuing of travelling documents” (DHA-Strategic Plan, 2015-2020:14). The DHA is divided into the following nine branches: Civics Services, Immigration Services, Finance and Supply Chain Management, Information Services, Human Resources Management and Development, Counter Corruption and Security, Communication Services, Institutional Planning and Support, and Project Office Border Management Authority. The DG is the head of administration supported by Deputy Directors General who are heads of branches. The area of focus for this research is the Immigration Services branch, and the branch is further divided into the following Chief Directorates: Foreign Office Coordination and Support, Port Control, Asylum Seeker and Refugees Management, Inspectorate, Permits and Immigration Services Support (DHA-APP, 2019-20:110).

Figure 1 below illustrates the different Chief Directorates within the Immigration Services branch.

**Figure 1.1: Immigration Services and Chief Directorates**



The issuing of documents to foreign nationals is the mandate given to Immigration Services. Documents, such as visas and permits specify the length of stay and conditions for foreigners in South Africa. The DHA also authorises and records the entry and exit of any person through various ports of entry, which are designated exclusively by the Minister of the DHA in terms of the Immigration Act (2002). The DHA’s Immigration Services is also responsible for



clearing ships at the harbours when they dock or leave the country. Only the DHA can grant refugee status to those seeking protection in the country, deport those found to have contravened immigration laws and prohibit foreigners who do not meet the entry requirements at the ports of entry (DHA-Strategic Plan, 2015-2020:14).

The roles and responsibility of the Chief Directorates within Immigration Services are explained in Table 1 below:

**Table 1: Role and responsibility of Chief Directorates:**

Chief Directorate	Responsibility
Immigration Services Support	<ul style="list-style-type: none"> <li>It provides support to Immigration Management for the entire branch and guides the branch on issues of policies and sets standards for operations.</li> </ul>
Port Control	<ul style="list-style-type: none"> <li>It secures all ports of entry by ensuring that all foreigners meet entry and departure requirements in terms of the Immigration Act of 2002.</li> <li>It also records the movement of foreigners on the enhanced Movement Control System (eMCS).</li> </ul>
Foreign Offices Coordination and Support	<ul style="list-style-type: none"> <li>Manages immigration matters in foreign countries.</li> <li>Offers administrative support to all embassies and consulate offices abroad.</li> </ul>
Asylum Seekers and Refugees Management	<ul style="list-style-type: none"> <li>It is responsible for providing strategic direction and leadership on all asylum and refugees related issues in terms of the Refugees Act of 1998.</li> <li>It is responsible to grant or not to grant refugee status to asylum seekers through its Refugee Reception Offices also known as Refugees Reception Centres.</li> </ul>
Inspectorate	<ul style="list-style-type: none"> <li>It is responsible to enforce immigration laws by detecting, arresting and deporting all illegal immigrants who contravene the Immigration Act of 2002.</li> </ul>

	<ul style="list-style-type: none"> <li>• It is also responsible to cooperate with other law enforcement agencies during investigation and provides policy directions on immigration related matters.</li> </ul>
Permits	<ul style="list-style-type: none"> <li>• It is responsible to issue visas and permits. All visas and permits are adjudicated and issued at Head Quarters, save for those issued at different Embassies and Consulate Offices abroad.</li> </ul>

South Africa is a “magnet” for migrants from Africa and Asia, and the key challenges that must be addressed by immigration policies is how to effectively regulate the entrance and departure of immigrants in the country. Moreover, these policies need to regulate migrants entering the country for economic reasons, particularly those migrants coming from the Southern African Development Communities (SADC) region with skills that the economy of South Africa does not need. Policies must also regulate residence and comply with South Africa’s international commitment to protect refugees in the Republic of South Africa (DHA-Strategic Plan, 2015-2020:14).

South Africa like other nations is obligated to manage immigration risk within the framework of the law and human rights for all migrants in the Republic. Therefore, the implementation of immigration policies is guided by the Vision and Mission of the DHA. The vision of the DHA envisages a “safe, secure South Africa where all of its people are proud of, value their identity and citizenship” (DHA-Annual Performance Plan, 2017-2018: 9). Through the Peace and Stability Policy Discussion Document of the African National Congress, the DHA adopted the principle of a risk-based approach in the control of immigration from countries that are at the centre of migration, which are mostly neighbouring SADC countries (African National Congress, 2012: 6).

Many illegal migrants in the Republic enter the country at ports of entry other than those prescribed by the Minister of the DHA and they enter without the required documents, some migrants contravene immigration regulations by overstaying their legal residency, thereby becoming irregular migrants (Crush, 1999:143).

Illegal or irregular migration can manifest itself as mixed-migration, where a group of migrants arrive as emergencies at a particular destination in an irregular manner in a country (IOM, 2008: 3). Mixed migration can be defined as “complex population movements, including refugees, asylum seekers, economic migrants, unaccompanied minors, environmental migrants, smuggled persons, victims of trafficking and stranded migrants, among others, may also form part of a mixed flow” (IOM, 2008: 1).

According to SAMP (2005) quoted by Adepoju (n.d.:10), the following are categories of irregular migrants:

**Table 2: Types of irregular migrants:**

Lawful entrants	Migrants who are admitted lawfully in the country but end up staying unlawful because of issues like retrenchments, and they choose to remain in the country.
Migrants who enter for non-work related purposes (tourists)	Migrants who are without proper and relevant work visas, but who are subsequently employed in South Africa.
Migrants with expired Work Visa	Migrants who have a valid residence permit but an expired Work Visa.
Unlawful entrants/unlawful stay	Migrants who enter at the ports of entry other than those prescribed by the Immigration Act of (2002), and thereafter acquired false documentation. Some are smuggled or trafficked into the country and some are asylum seekers.
Undocumented migrants	Illegal migrants without legal documents but are legalised through special dispensation regimes such as Zimbabwe and Lesotho.

To guarantee absolute control of the safety and security of the country, the DHA has on several occasions amended its immigration and refugees legislation to close all identified gaps and address challenges that might have arisen owing to the evolution of international migration

trends. Some of the new proposed amendments for both immigration and refugee's legislation are as a result of the new 2017 White Paper policy on International Migration (DHA-Annual Report, 2016-2017:11).

The Immigration Act 13 of 2002 largely makes provision for economic migrants, who seek improved living and work opportunities, and migrants with critical skills that are critically needed in the country. These migrants are prioritised to boost the economic development of the country. However, in South Africa, attention is also paid to foreigners who fled their homes out of a well-founded fear of being persecuted for reasons of nationality, tribe, religion, political opinions, sexual orientation or membership of a particular social group which is not approved by their home countries.

In managing immigration, especially asylum and refugees, South Africa has committed itself to a number of international treaties and conventions, including the Geneva Convention (1951), the Protocol (1967) and the OAU Convention for Africa (1969). The Refugees Act (1998) was developed and aligned to all international treaties, and it guarantees migrants a broad range of human rights protection as prescribed by the Constitution (1996) and international conventions. The country, therefore, is obliged by the terms and conditions of those treaties to admit immigrants seeking asylum into the Republic, investigate their claims, and take a decision on whether to grant asylum (Musuva, 2015:3).

The rationale of the research is to assess the implementation of immigration policies in South Africa by applying the 7-C Protocol instrument for better understanding the complexities in the policy implementation process.

### **1.3. Problem statement**

Since the dawn of democracy in 1994, progress has been made in the legal and policy framework including that of immigration, through challenges are still being experienced in the implementation of immigration policies. The number of illegal and undocumented immigrants residing in South Africa is on the rise, and the country is confronted with the challenge of managing this problem. This puts a strain on the budget and resources of the DHA owing to the high cost of enforcement, including inspection, detention and deportation. In fact, in 2011, about 12, 3 million immigrants entered the Republic of South Africa through various ports of

entry, and their movement was recorded on the enhanced Movement Control System. Yet, of these immigrants, only 10, 8 million were recorded as having left the Republic at the expiry of their visas. About 1, 5 million did not leave, and one can infer that these immigrants are still in the country in contravention of the Immigration Act of 2002. Moreover, the financial challenges of managing illegal immigration and inadequate policy implementation is exacerbated by the huge litigation bill against the DHA due to the wrongful arrest of immigrants and the delay in the issuance of permits and visas. In the financial year 2017-2018, the total litigation cost was R665, 9 million (DHA-Annual Report, 2017-2018:26).

Policy needs to be effectively implemented in order to alleviate the financial challenges of managing immigrants. The problem being investigated in this research is that although fairly adequate policies for immigration exist, the reasons for the poor implementation and the exact causes of implementation failures challenges are not well known and understood. This research investigates this problem and, moreover, assesses the implementation challenges by applying the 7-C Protocol.

#### **1.4. Research aim**

The aim of this research is to assess the implementation of immigration policies by applying the 7-C Protocol. Thus, developing an understanding of the priority issues to be addressed will lead to improved implementation of these policies.

#### **1.5. Research question**

This research seeks to answer the following questions: Are immigration policies implemented as planned? What are factors that affect policy outputs and their impact?

#### **1.6. Research objectives**

The research objectives provide a comprehensive indication of what researchers aspire to accomplish in their research (Mouton, 1996: 1). This research seeks to apply the 7-C Protocol instrument to assess the implementation of immigration policies within Immigration Services

in order to develop an understanding of the priority issues to be addressed for better policy understanding and implementation. The research objectives are as follows:

- To provide a theoretical perspective of public policy and the 7-C Protocol in policy implementation from a public, development and management point of view.
- To provide an overview of the legal framework and policies regulating immigration in South Africa.
- To provide a case study on post democracy challenges affecting immigration policy implementation.
- To provide fieldwork results and research findings on immigration policy implementation.
- To provide conclusions and recommendations for future immigration policy implementation and for further research in this regard.

### **1.7. Research design**

A research design “provides a precise plan of action in a manner that clearly describes the techniques that will be employed when executing the research” (Mouton, 1996: 107). A research design allows the prospective researcher to collect and analyse data (Bryman, 2012:46). In other words, a research design should explicitly provide the following information with regard to; sampling, data collection and data analysis techniques.

The research design of this research was both empirical and non-empirical. The empirical research involved primary data collection, and the non-empirical research was based on data collection from secondary sources. In this research, the empirical research entailed the analysis of data collected from the research questionnaire and interviews, and the non-empirical research comprised a literature review in order for the researcher to be familiarise with the unit of analysis. Policy documents, reports, case perspective, legislation for the implementation of immigration policies and the DHA documents were consulted and analysis in the examination of existing data to provide answers to the research problem and question.

The researcher made use of Cloete et al.’s (2018) 7-C Protocol, which is a model of policy implementation, an instrument to analyse data collected through the research questionnaire and textual analysis of policy documents, case study and other documents relevant in the

implementation of policy at the DHA. This provided the researcher with insights into critical aspects of policy implementation.

The analysis of data assisted the researcher to outline the theoretical framework and also identifying challenges of implementation in the literature. Moreover, the researcher analysed the data collected in order to determine the complexities of immigration policy implementation and to draw conclusions and recommendations.

## **1.8. Methodology**

The research adopted both qualitative and quantitative approaches. The research questionnaire was delivered to all the participants, and interviews conducted with managers (see Annexure B and C).

## **1.9. Sampling**

Due to constraints such as time and costs, it is generally impossible to study the whole population which make sampling so important in research. Rossouw (2003:108) describes sampling as “the process through which it is decided who will participate and be observed”. Moreover, Burger and Silima (2006:658) define sampling as “the process used to select a portion of the population for the study”.

This research adopted non-probability sampling. This sampling type is known for being less complicated and time efficient than probability sampling. This sampling is also known to be accurate on the results it provides, moreover, the confidence it ensures in formulating a conclusion to a study.

The researcher selected a purposive sampling technique to ensure that those selected give worthwhile results. According to Burger and Silima (2006:657), “purposive sampling allows the researcher to gain important insight into a particular subject, using information gathered from relevant participants”. Eighteen participants were selected to participate in the research from the following directorates: Inspectorate, Refugee Reception Office, Permits and Development, Immigration Services Support. The participants included six middle and senior managers and ten Immigration Officials. The adopted sample represented employees involved

in the implementation of immigration policies. The views of immigrants who are the beneficiaries of immigration policies are presented in the case study in Chapter 4.

### **1.10. Chapter conclusion**

Chapter 1 provided the background to the research, the rationale, reasons for undertaking the research, the problem statement, the research aim, research objectives, research questions and the adopted research methodology. The focus of the research is the application of the 7-C Protocol instrument to assess the implementation of immigration policies in the DHA in order to develop an understanding of the priority issues to be addressed to improve implementation.

Chapter 1 described the design and the method of gathering data that was used. All participants were requested to complete the consent form (Annexure A) before participating in the research and it was explained to them that their participation is voluntary and they are under no obligation to participate. Also, permission to conduct the research at the DHA was obtained before the research was conducted. The chapter explained how the research used both an empirical and non-empirical design, and that the researcher physically went out to the field to gather empirical data that were analysed and interpreted. The chapter clarified that non-empirical research involved an analysis of DHA documents, legislation and a case perspective to gain an understanding of all implementation processes and challenges of immigration policies and to arrive at informed conclusion and recommendations.

The next chapter reviews the literature on public policy implementation and explains the clusters of the 7-C Protocol.



## **Chapter 2: literature review**

### **2.1 Introduction**

Chapter 1, highlighted that the research seeks to assess the implementation of immigration policies at the DHA's Immigration Services by applying the 7-C Protocol. Building on this understanding, chapter two provides literature on public policy and more specifically on public policy implementation discourse. The literature on public policy implementation is plentiful, and implementation scholars have provided groundbreaking work on complexities and challenges of policy implementation. Yet, gaps still exist between when the policy is formulated and implemented (Brynard & de Coning, 2006).

The literature review seeks to provide a platform for understanding public policy implementation to further the DHA's Immigration Services objectives and international obligations. The implementation of immigration policies has been discussed in various media, newspapers and in some academic articles to be less than what is expected. Following this, an analysis of public policy implementation and its various theories will be discussed including the 7-C Protocol.

The core theory of this research is found in Cloete et al.'s (2018) 7-C Protocol model. This model denotes the interlinked variables that give better understanding of policy implementation namely: Content, Context, Commitment, Capacity, Clients/Coalitions, Communication and the Coordination of the policy.

Marume et al. (2016: 86), asserts that the discourse of public policy implementation may be found in forms such as administration of legislation. Marume further posits that before any public policy is implemented, a number of methodological questions should be asked such as, what are the main public policy implementation models? What are the significant factors influencing public policy implementation? And, what are the specific problems and challenges that decision makers face in realising their policy objectives and outcomes?

For the policy to be accepted certain processes and procedures must be followed. The public policy making process is multi-layered and an intricate process based on two pertinent fields: Political Science/Studies and Public Administration (Skok, 1995:329). According to Skok (1995:330), “Public Administration function involves the carrying-out of public policies, which are a result of the political features of government, and which are funded and authorised by political administrators”.

One of the approaches in understanding the public policy process is through assessing the causal variable which otherwise is referred to as policy determinants (Aminuzzaman, 2013: 444). Scholars mostly ask pertinent questions such as to what extent public policies are determined by macro-level socio-economic factors and the level of influence and relationship between domestic actors and the international systems?

Public policy makers take into consideration the realm of potential options and constraints at a given historical, political and social conjuncture. Furthermore, in making and implementing the policies, they face internal and external constraints such as financial, personnel, and informal resources, resistance from domestic interest groups, obligation to international conventions, and pressure from external actors (Aminuzzaman, 2013: 444)

Various stakeholders including interest groups, business, communities and politicians, make policy development and implementation an intrinsically political process (Goodwin et al. 2006: 5; Weible, 2014: 5). As an academic discipline, political studies requires an aptitude for the description, analysis and explanation of public policy to take place (Dye, 1984: 1).

South Africa is classified as a developmental state. After achieving a democratic dispensation in 1994, several policies and legislation had to be redrafted and reformulated to reflect the new South Africa (Mthethwa, 2014: 1). New policies and legislation had to reflect the founding provisions of the Constitution (1996) (Cloete & de Coning, 2011:75). This meant that many policies had to suddenly be changed in order to focus on socio-economic and socio-political variables. Peters (2001:232), mentions that “the real policy of a government is the policy as implemented”.

Empirical data drawn from developing countries suggest that economic growth and development management are significantly linked to the nature and focus of the policy determinants (Aminuzzaman, 2013: 444).

In a policy implementation process, steps taken to implement those policies are political reliant, “having both a macro and micro political context” (Barrett, 2004:259). Barret, further refers to the critical role of the external environment, which has variables, such as the economy, the legislation, and what is happening or trending globally as aspects that must be considered when policies are developed. Moreover, the micro-political context “includes the external environment and consists of variables, such as the mission of the policy, skills needed, and the organisational culture” (Barrett, 2004:259). The complexity of public policy implementation is founded where some implementers have control over some factors and others do not (Barrett, 2004:159).

Hanekom (1987:54) explains that it is not correct to assume that public policy implementation is simply about executing already drafted policies into action as, there is more to public policy implementation than that. In fact, public policy implementation is more concerned about valuable intrinsic information. It pays attention to matters that include the following questions: What objectives does the legislator have in mind about the planned policy? Are material and human resources available to implement the policy? Does political exist for the implementation? Will the policy respond to the needs of interest groups? In addition, “questions must be asked pertaining to the efficiency of the administration; and, one should determine whether the implementation of the policy is still aligned with the initial objectives of the policy-makers” (Hanekom, 1987:54). The next section will explore the concept of public policy and policy implementation.

## **2.2 The concept of public policy and policy implementation**

Public policies drive the service delivery agenda of the government, and the correct implementation of those policies is essential in a developmental state like South Africa. This section focuses on public policy as a phenomenon and the implementation challenges of those policies.

Public policy is defined as the making of important decisions by the state to the benefit of all people (Hanekom, 1987: 55). Cloete et al. (2018: 06) defines policy as “a declaration and implementation of intent”. Najam (1995:7), defines policy implementation as “a process to carry out, accomplish, fulfil, produce and complete the activity”. Public policy implementation, therefore, can be referred to as actions aimed at achieving objectives as set down in the prior policy.

The real test of an effective policy is when implementation achieves the intended results. Policy implementation is concretised when material and human resources are changed into concrete deliverable outputs that lead to changes in the lives of members of society (Cloete et al. 2018:195).

Policy development in South Africa is based on the provisions of the Constitution (1996). Therefore, the drafting of all the policies and their implementation, must be compliant with the provisions of the Constitution (1996). Furthermore, consultation with all relevant stakeholders and role players is important to ensure their commitment to the implementation of these policies. Thus, policy makers have to be certain that, before any policy is developed and implemented, all relevant stakeholders are persuaded to be part of the implementation process, including politicians, coalition partners, business, interest groups and the community at large.

In South Africa, initiatives for public policy making are derived from a number of sources. The political elite (formulate and implements government policies). When a policy issue or problem is identified as detrimental to a segment of society, the public may mobilise support to convince policy makers to change the situation in their favour (Ferreira, 2012: 41).

One feature that distinguishes any developed public policy is that it is “fluid and fragile” (Freedman, 2013: 26). Hanekom (1987: 8) and Moharir (1986:15) support this argument by asserting that public policies must be perceived as an ongoing attempt by the government to improve the lives of people despite many challenges in the implementation.

Hanekom (1987:8) argues that some of the aspects contained in public policy are the intended route the drafters of the policy like to steer the public to, also it should contain an explanation of how to use limited resources under difficult global financial constraints. This includes a

need for legislators, who are tasked with the development of policies taking into consideration the Constitution (1996), and what it stands for, and bureaucrats, who are expected to know and understand the implication of the Constitution in their line of work. Both the legislators and bureaucrats should know and understand the issues that must be adequately addressed in a policy.

Hogwood and Gunn (1984:18) state that at the core of public policies is the assumptions of what governments can do and the impact of their actions will be. Otherwise, public policy outcomes have political ramification because they are a political activity.

The political side of the public policy process is very important and, according to Hanekom (1987: 8), “it refers to the role the government plays with regard to how the country’s resources are to be utilised, where and how, and which societal issues are going to be addressed in the said public policy”. The administrative side of the public policy process refers to the participation of the executive arm of government institutions and the actions they take towards achieving the set out goals as determined by the current government (Hanekom, 1987:8; Peters, 2015:219).

The implementation of public policy takes the political environment and the behaviour of administrative staff into consideration (Brynard, 2009:575). For the policy to be understood, Howie and Stevick (2014:582), explains that it cannot be separated from practice.

Madigan et al. (2004: 48) explain that one of the key methods in policy implementation is to apply the acronym SMARTE “Specific, Measurable, Achievable, Realistic, Traceable and Enforceable”. The criteria provided by this mnemonic is a useful guide as it has all the elements that can facilitate, and be used for effective monitoring and evaluation of policy implementation. By applying the standard Specific, policy implementers would understand that they must know what is required of them. The application of the criterion Measurable in gauging the policy’s success will facilitate the process of monitoring and evaluation easier. The criteria Achievable and Realistic indicate that all policy objectives must be attainable and practical. The standards Traceable and Enforceable point to the need for the policy objectives to be trackable and enforceable.

When policy is implemented, some leadership challenges are centred on political and administrative interfaces, “the physical organisational placement of governance structures and the monitoring and oversight of the project” (Cloete et al, 2018:196). Some early scholars saw policy implementation as not more than an administrative function, once the policy is legislated and the institution is authoritatively mandated to execute it, implementation would automatically happen (Cloete et al, 2018:196).

Thus public policies suffer from what Rahman (2012:29) labels as “guided ownership”. It is further argued that ownership, in terms of policy formulation, may not necessarily result in concrete changes on the ground, given a government’s lack of commitment, inadequate institutional capacity, and governance deficits.

No common theory exists when it comes to the implementation of public policy. However, a survey conducted on public policy literature shows that scholars have identified a remarkable convergence on the critical explanatory variables on policy implementation (Cloete et al, 2018:196). The dearth of implementation theory sometimes leads to confusion about where it should begin, when it should end, and how many types of implementation there are (Hill & Hupe 2014: 17). In fact, a gap exists between policy formulation, expectations and perceived results in the implementation process, as there is a lack of theory on policy implementation. These implementation gaps are often between compliance issues and the desired results of the implementation (Brynard, 2007:358). Mnculwane and Wissink (2014: 89), claim that the increase in policy implementation studies, coupled with the theoretical conceptualisation, has progressed in establishing paradigms that explain the complexity and dynamics of public policy implementation.

The first paradigm is based on the notion that executive authority and bureaucrats will ensure that the policy is executed in an efficient and effective way. The second paradigm criticises the top-down approach of policy implementation, which never worked effectively, and maintains that the “dawn of democracy” assisted in allowing for consultation, before the policy is implemented, by following a bottom up approach (Mnculwane & Wissink, 2014:89).

The third paradigm emphasises a collective approach by synthesising theories from a variety of approaches. Recent research has proved that this approach has gained momentum within the

field of public policy implementation (Mnculwane & Wissink, 2014:89). These research studies make a clear distinction between the interrelated concepts of implementation and performance. Moreover, they observe that impact studies typically ask the question: What happened? However, implementation studies tend to ask the question: Why did it happen?

Moore, quoted by Cloete et al. (2018:198), suggests a comprehensive strategy that could be used to implement public policy in order to advance the interest of the public. This includes “elements of substantive value, legitimacy and political sustainability as well as operational and administrative feasibility”. These linkages are dubbed a strategic triangle that argues that the strategy of an organisation should attempt to address the following three challenges (Cloete et al, 2018: 198):

- Firstly, the purpose of the organisation’s vision and mission, in ensuring that it realises the purported public value.
- Secondly, the continuous support and buy-in from society to sustain the organisation.
- Thirdly, complexities and challenges of running the organisation to achieve the set objectives.

Najam (1995:10) explains that designing public policies is challenging in itself, and policies may look good on paper but hard to implement due to costs and other related challenges. Sometimes, it is difficult to formulate policies that pleases political leaders and the constituencies<sup>2</sup>, moreover, it is even harder to implement those policies in a way that pleases everyone including beneficiaries of the policy. The following section analyses the top-down, bottom-up and third generation approaches to implementation theory.

### **2.3 Top-Down versus Bottom-Up policy paradigms**

The top-down and bottom-up approaches in policy implementation impact differently on policy implementation. The top-down approach regards policy as given and seeks to explain what is right or wrong with the implementation process and with the institutions responsible for implementation rather than the policy itself (Marume, 2016: 88). The top-down approach

---

<sup>2</sup> A group of people in a specified area with the same shared political opinions and interest represented by a politician.

has some limitations of assuming simplicity in areas of sophisticated complexity, and of misguided belief that legislature must have primacy in the whole process of policy conceptualisation and that the executive including senior administrators be responsible for the implementation. This is short sighted thinking and does not reflect nor represent the true situation.

Najam (1995:12) argues that a top-down approach is an example of early analytical models and has remained the more dominant genre, although democracy has brought some relief in the participation part of the approach. However, this perspective begins with an authoritative policy decision at the central (top) level of government. With regard to the top-down approach, the assumption is that the policy environment does not influence the implementation of the policy because it follows a structured and rational process, without much influence from the policy environment (Najam, 1995:12). This has been the shortcoming of the top-down approach. The top-down approach focuses on the following questions:

- How far were the objectives of the policies achieved over time?
- What were the policy impact and outcomes affecting the policy from the principal factors?
- How officials responsible for policy implementation acted consistent with the objectives and procedures of the policy?

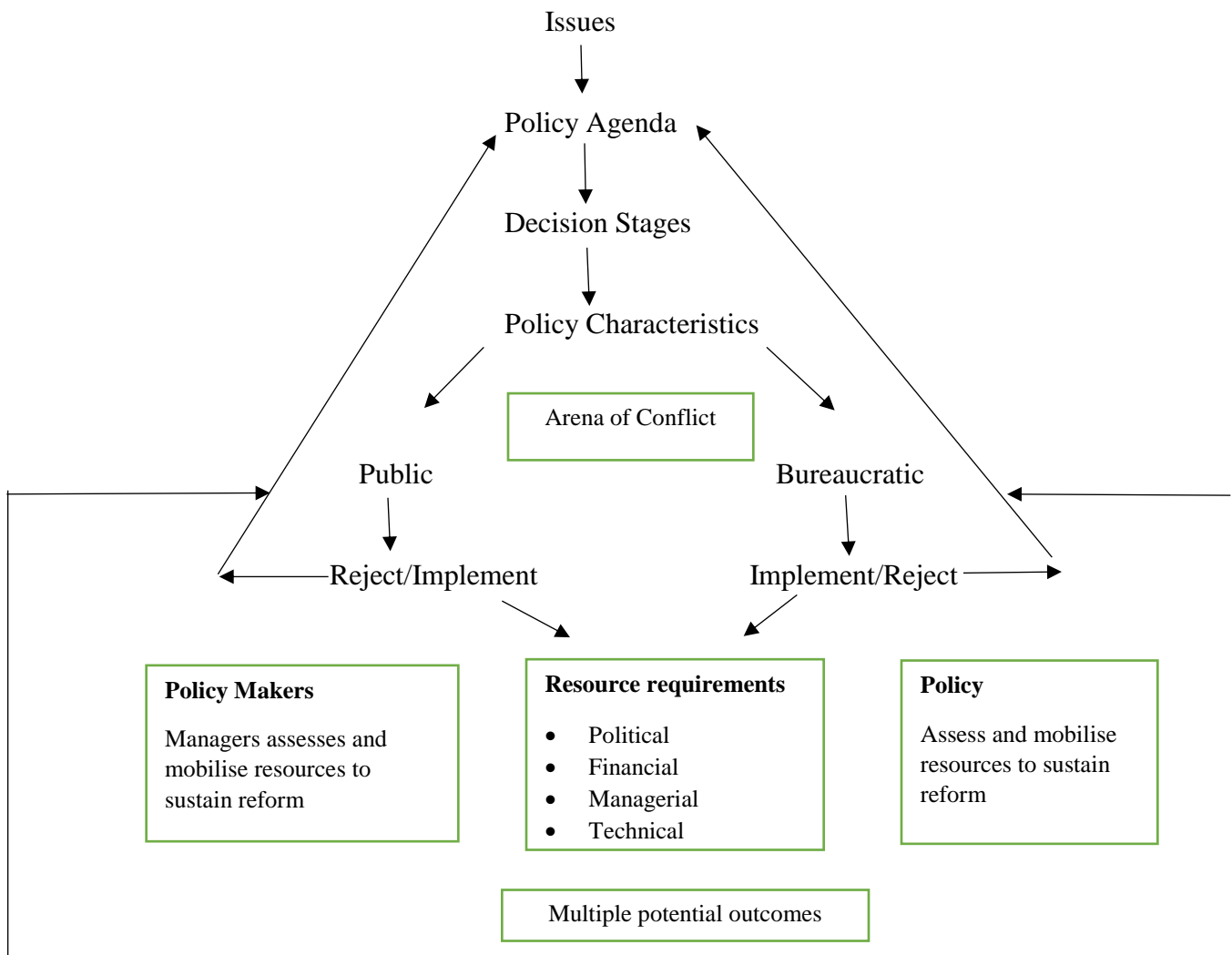
The bottom-up approach is the opposite of the top-down approach. The bottom-up approach identifies weaknesses in the implementation process and suggests alternatives and solutions to address them. The bottom-up approach encourages participation from all implementation actors including junior staff. More so, those on which a policy impacts. It recognises the importance of benefitting from a diverse group during policy implementation (Dlamini, 2014:13).

According to Najam (1995:14), both paradigms present a better understanding of the process of public policy implementation, moreover, it demonstrates significant explanatory strengths as well as weaknesses. Each approach is important to achieve a specific purpose on policy implementation, however, there is a need to merge the strengths of both approaches to ensure successful implementation.



The third generation process and its accompanying approaches to implementation are seen as an alternative to top-down and bottom-up approaches. The method of studying implementation as a process in itself proposed a more realistic representation of implementation and it came to be known as the interactive model (Dye, 1995; Grindle & Thomas, 1991).

**Figure 2.1: Interactive Model of Implementation**



Source: Brynard (2007:37)

The interactive model explains that the response from various stakeholders may occur at any point along the process of implementation. In comparison to the approaches mentioned earlier, the interactive model sees policy implementation as a process of decision making and

implementation. Interaction decides whether implementation may continue, or returns to the agenda or to any point on the model, depending on where conflict arises (Burger, 2015:22).

The implementation process requires financial, managerial, technical and political resources. It is therefore critically important to protect against those opposing the policy change by blocking access to these essential resources. The process endorses the fact that sometimes policy outcomes are very different from what policy makers may have conceived these to be, due to the process of change and conflict that transpires during the implementation stages.

The various implementation model approaches discussed in this section provide confirmation of just how complex policy implementation is. The next section will specifically assess the complexity and challenges of policy implementation.

## **2.4 The complexity of implementation**

This section focuses on the complexity of policy implementation and the variables that are critical in ensuring its success. According to Lindquist and Wanna (2015: 227), the availability of resources or even political agreements cannot always be counted upon due to factors and considerations beyond the policy to be implemented, suggesting that the lead department should be prepared for different scenarios and to adapt. The amount of technical and cultural shift inherent in new policy regimes, the lead times for implementation, the number and capabilities of key stakeholders, the nature and quality of reform coalition, and the readiness and centrality of a lead or supporting coalitions vary considerably across policy initiatives creating distinct policy and administrative challenges.

Public sector leaders, particularly those new to their responsibilities, need to fully understand the origins of the policy, including the needs, pressures, and the politics that led to its enactment. Moreover, they also need to appreciate the range of actors implied in the upstream of policy development and the downstream of implementation, their interests, capabilities, and ability to block and further the policy as original designed (Lindquist & Wanna, 2015: 227-228).

The literature on organisations and change has long suggested that leader whether of private or public organisations should be scanning environments for threats and opportunities, and preparing their organisations for change. This implies developing anticipatory repertoires such as strategic planning and environmental scanning, and open-minded and alert leadership.

According to Cloete et al. (2018:205), successful policy implementation is dependent on variables that must be identified and addressed to ensure its effectiveness.

Training and development remain a key factor and variable contributing to successful policy implementation. Training seems to be a non-controversial solution to often highly complex implementation problems (Brynard, 2009:556).

Recording where various policy implementation levels happens is less important than acknowledging that during implementing stages, policies might not be clear and straight forward to the implementing officials. The next section critically analyse the 7-C Protocol variables,

## **2.5 The 7-C Protocol**

Paul (2010:16) quoted Goggin (1986:328) stated that over the years during which the policy implementation debate became more and more prominent, scholars from diverse fields and adhering to dissimilar perspective have agreed on number of key variables in policy implementation. These included:

- The form and content of the policy itself;
- The capacity of the organisation(s) responsible for making the programme work; and
- The qualifications of the people in charge of operations.

Drawing upon this consensus Najam (1995) identified five key variables for understanding policy implementation. They became known as the 5-C Protocol which stands for content, context, commitment, capacity and support from coalitions and clients. From the proposed 5C Protocol, Brynard (2005:21) added communication as the sixth 'C' of policy implementation. Communication is seen as a critical variable for implementation to the extent that without it policy implementation is likely to falter. Moreover, Burger (2015:94) argues in his research that effective coordination plays a critical part in successful implementation and without good

coordination desired results will also not be realised. According to Cloete et al. (2018:206), coordination was added as the seventh ‘C’ in Najam’s original 5-C Protocol.

As earlier indicated, the assessment of the implementation of immigration policies in this research is based on Cloete et al.’s (2018) 7-C Protocol model. This section seeks to explain the complexity of policy as it travels through the complex, dynamic tangle of implementation. In attempting to describe how policy implementation changes its surroundings, and the policy itself in the process, this research also involved exploring how policy can be influenced to accomplish the goals it set out to achieve. While the maze is unique to each situation, the synthesis provided by this research on the subject suggests that critical variables are identifiable. Thus, this research explores the core theory pertaining to the clusters of the 7-C Protocol variable in the implementation process.

Cloete et al. (2018:206) explain that, “depending on the specific implementation situation, each of the seven variables is linked to and influenced by the others, to varying extents”. The policy content may provide implementation capacity. In other words, challenges or success of policy implementation may be as a result of institutional context of the relevant agencies. If there are inefficiency problems or lack of capacity, the commitment of implementers may close that gap only if there are no opposing actors in the implementation. This indicates the need for effective communication, meaning all actors in the policy implementation process need to understand and embrace the goals, objectives, roles and responsibilities throughout the policy implementation process. Moreover, coordination among various stakeholders with regard to strategies and plans cannot be over emphasised.

The 7-C Protocol are discussed below:

### **2.5.1 Content**

Policy as content can be introduced by government to coerce implementers to implement what the government wants. This means, the content of policy is important to pave the way on how it intends to achieve its objectives at various stages of policy implementation (Brynard, 2000:180). The content of a policy focuses on its goals, what it intends to achieve, how it directly links to other variables and how it aims to give solutions to the perceived problems.

Policy content can either be distributive, regulatory or redistributive. The policy content as distributive seek to advance and create general welfare in society, whereas as regulatory it is more focused on rules of conduct, with sanctions for those that fail to comply. “In very broad terms, distributive policies create public goods for general welfare and the redistributive policies set out to change the allocation of power and/or wealth of certain groups at the expense of others” (Cloete et al, 2018:207).

The following are some of the key element of policy content (Cloete & De Coning, 2011:135-169):

- Layout and the objectives, vision and mission statements of the organisation.
- Challenges the policy seeks to address.
- Strategies and activities required to execute the policy.

Policy content must remain unambiguous as ambiguity could lead to uncertainty as to the policy maker’s intention. Moreover, ambiguity could create a gap for implementation actors to not implement specific policy intervention as expected. The content variable implies that the immigration policy mandate, objectives and vision must be clear to all implementers, including various stakeholders who participate in the implementation.

This research will establish whether the above mentioned issues have been factored into the implementation of immigration policies in the case study. Nevertheless, current immigration policies appear to entail elements of distributive and regulatory policies. There is evidence of distributive policies that seeks to address the welfare issues of South African by attracting foreign direct investment to create more jobs and to reduce the high unemployment rate in the country. Furthermore, distributive and regulatory policies call for different types and levels of implementation contexts and capacity and, as a result of this, are likely to produce different types of implementer commitment and supportive clients and coalitions. Moreover, immigration policies are regulatory in nature as they seek to encourage compliance among all immigrants to the laws of the country, and punish those who act in contravention of the laws. Content entails goal setting, policy and strategy and programme management.

### 2.5.2 Context

The institutional context in policy implementation involves the procedure the policy will follow to solve the identified problems. The context sets the limits in terms of what must be done or not done during the implementation stages. Institutional context depends on the position of the policy within an organisation, strategic direction and leadership support for its implementation (Cloete et al, 2018: 8).

During the conceptualisation of the implementation process, senior managers of the organisation should be concerned about organisational structure and culture. Both these variables could lead to policy failure or success during implementation (Brynard, 2005:659).

A well-designed institutional structure is a key requirement in public policy implementation because of the institutional implications of the organisation's design structure (Knill & Tosun, 2012:165). Moreover, the technical language used in the policy can create a challenge, especially within the complex field of immigration (Tebele, 2016:87).

According to Knill and Tosun (2012:166), institutional arrangements are important in policy implementation because a causal relationship exists between the requirements of these and the content of public policy implementation. Institutional changes might lead to policy implementation challenges. This calls for a sound leadership approach, which will set up a system that will allow for proper and accurate implementation of public policy.

An adequate institutional structure ensures sufficient resources, which in turn determine successful policy implementation. This should be considered by those who implement policy as pointed out by Tebele (2016:88):

The structure or hierarchy of an organisation refers to how job responsibilities and labour is divided and how decision making authority is organised. It is important that the organisation should consider these aspects before introducing any new policy intervention, because if not, it might also lead to implementation failure. The "culture" of the organisation denotes the shared understanding of values, beliefs and principles amongst its members (Okumus, 2003:871-882). Cloete et al. (2018:208) argue that the institutional context in policy

implementation is shaped by the socio-political and legal realities of a system. This means that an understanding of institutional context will systematically allow the policy to be implemented without failure.

To provide a context, the following elements must be realised within an institution as key elements. Firstly, the identification of actors within an institution who are key in influencing the implementation process. Secondly, power relationship must be traced between all relevant institutions and, lastly, there needs to be recognition of these institutions, which are characterised by social, economic, political and legal settings, in the implementation process. Therefore, a lack of attention to these elements may affect effective implementation of immigration policies.

The question that this research seeks to answer is whether the DHA has considered social, economic, legal and political issues when developing and implementing immigration policies.

### **2.5.3 Commitment**

The success of policy implementation is depended on full commitment by all actors during implementation. Commitment is important at all policy levels where policy passes, whether at street or state levels. Yet, the most logical policy imaginable, which may pass a cost/benefit analysis with high marks, can be developed by government. Cloete et al. (2018: 208) explain that, for any public service policy implementation to succeed, commitment from politicians, managers and international stakeholders is crucial. Leadership, whether political or managerial, should demonstrate commitment before the implementation of any policy. Commitment depends on a binding contract between those entrusted with policy implementation, which ensures the availability of necessary resources for effective implementation (Cloete et al, 2018:208).

Commitment also determines the method that must be followed to ensure that all implementation loopholes are closed. Thus, the desired results are realised through total commitment to policy implementation from those entrusted with it. However, without commitment from the government agency, the government might have the best logical policy

imaginable and the best bureaucratic structure, but implementation will still fail (Cloete et al, 2018:208).

Commitment influences all the other variables within the interlinked 7-C Protocol. Implementation actors should be aware of these interlinkages, and the most appropriate ones should be identified to facilitate a specific implementation process (Brynard, 2005:660). A bottom-up perspective might attempt to view implementer commitment in conjunction with indications from coalition partners and junior immigration staff as a basis for inspiring adaptive redesign of the policy at street level. This would also entail the changing of content, capacity, and institutional contexts and will be in line with implementer commitment.

Through this research, the researcher will establish the degree of commitment and support shown by political executives and managers in the implementation of immigration policies.

#### **2.5.4 Capacity**

Capacity in the public sector is one of the key factors that ensure effective policy implementation. The fact that public policies are sanctioned by legislations and promulgated in legislative acts of one or other kind, does not necessarily lead to automatic implementation. Various factors such as competence, administrative and technical ability, culture, the availability of monitoring and evaluation oversight and the structure of the organisation to effectively implement policies (Cloete & Wissink, 2000:173). Capacity refers to “the ability to deliver public services aimed at raising the quality of life of citizens, which the government has set out to deliver over time” (Cloete et al, 2018:208).

The World Bank (1997: 6) describes state capacity as the “ability to undertake and promote collective actions efficiently”. State refers to a broader collective actions not only focusing at the administrative and technical skills of employees of government, but on the broader effectiveness of the public service.

To ensure effective policy implementation, resources are important. Combination of tangible and intangible resources play a significant role. Tangible resources include resources such as material, human, financial, technological and logistical capital. They determine whether the policy outcomes that must be carried out are realised in the public sector. Intangibles resources



are also required for the realisation of policy objectives. Intangible resources that are also important in policy execution are related to qualifications, motivation, courage and so forth (Cloete et al, 2018:208).

Capacity effects is affected by the other six variables. This is particularly the case between content and capacity, in that the two will in essence define and redefine each other. Najam (1995:51) notes that standard operating procedures are more likely to shape what form of capacity provisions is most appropriate to which agency, just as the provision of certain forms of capacity (resources) may themselves reshape standard operating procedures.

Where necessary, the main organisation must lead the facilitation role in the implementation of the policy. This can be done through coordinating policy implementation either within organisations or another department within public service, or in the private sector. The degree of control must still be retained within an organisation where the policy originates (World Bank, 1997:162).

According to the World Bank (1997:162), no objective criteria exist to guide the organisation in the exact nature of its role in effecting service delivery, but there are helpful indicators with regard to capacity in the form of the following questions:

- Is the responsible department capable of providing the required policy service?
  - Can the policy service be effectively provided in terms of the quantity, quality, cost effectiveness and within prescribed time frame?
  - Can the policy service be provided in terms of a required approach, such as being participatory, people-centred, and with the attributes indicated in the above questions?
- The traditional agency must provide this if the organisation is unable to do so.

#### **2.5.4.1 Administrative capacity**

The effective implementation of public policies is depended on effective administrators tasked with the responsibility to implement the policies. Berman (1978:167) explains that when policy decisions are converted into action, administrative efficiency of policy implementation occurs. Hence, it is important that, for any successful policy implementation, resources for administrators must be made available (Knill & Tosun, 2012:169).

Howlett (2009: 155 & 157), explains that all institutions, whether public or not, are in need of certain human resource capacity, skills and expertise that ensure the dedication of bureaucrats to attain outcomes of the policy. Hanekom (1987:63), therefore states that it is not advisable for policy implementation to be entrusted to organisation members who are not suitable and equal to the task of implementation.

If for any reason the policy implementation of the government is entrusted to the department that lacks administrative capacities, reprioritisation of resources should be considered to ensure successful implementation (Hanekom, 1987:63).

Mthethwa (2014:16) argues that, in confronting challenges of implementing public policy, firstly, staff employed in public service must have requisite skills and the right aptitude to execute government policies. Chapter 10 Section 195(1) of the Constitution (1996), outlines the basic service principles and values that all public servants are expected to embody when executing their duties:

- a) Maintaining and promoting a high standard of professional ethics;
- b) Promoting efficient, economic and effective use of resources;
- c) Ensuring that public administration is development oriented to the public;
- d) Ensuring that public services is provided fairly, equitably and impartially and without discrimination;
- e) Responding to people's needs, and encouraging the public to participate in policy-making;
- f) Ensuring accountability in public administration;
- g) Fostering transparency and provide accurate and accessible information in time to the public;
- h) Maximising human potential and cultivate good human-resource management and career-development practices; and
- i) Ensuring that public administration is broadly representative of all South African people, and redress the imbalances of the past by recruiting personnel based on ability, objectivity and fairness.

Cloete et al. (2018:317) concur with the above principles in that adequate administrative capacity is needed to bring about major policy changes in public organisations. Moreover, the support of senior management and political office bearers is important for the realisation of policy outcomes. Any attempt at policy implementation by the executive and bureaucrats without necessary capacity will be catastrophic as highlighted in the case study presented in Chapter 4 of this research.

In assessing the implementation of immigration policies, this research determines whether critical resources including tools, adequate skills and monitoring and evaluation have been provided to ensure successful implementation.

### **2.5.5 Clients / Coalitions**

The role of both internal and external clients/coalitions partners is very important in ensuring effective policy implementation. Scholars of public policy implementation acknowledge that the participation of clients/coalitions cannot be overemphasised (Burger, 2015:29). Furthermore, policy implementation cannot be affected by the non-state actors only, interest groups such as business, opinion leaders, passive recipients also impact the implementation of the policy (Rein & Rabinowitz, 1978: 314).

The government should form a coalition with opinion leaders, interest groups including outside actors for the successful implementation of the policy. Outside actors including interest groups can influence the shift in power that might influence the internal shift in the policy implementation process (Brynard, 2000:185-186).

The influential clients/coalitions must be determined first to allow better implementation. Most often, the implementation process affects the larger group more than the key actors and they have the power to influence the implementation process. However, key actors must always be part of the implementation process to enlarge the scope of enquiry. The control of larger group and minor actors is important to ensure that the group is manageable and policy is implemented without major hindrances (Brynard, 2005:662).

It is very important that all stakeholders who participate, particularly those affected by the policy understand the objectives of the policy. Failure of public policy normally is caused by objectives that are not clearly defined and understood by implementation actors and interest groups (Knill & Tosun, 2012:170).

The main role of clients/coalitions during policy implementation is to contribute information, knowledge, premises, staff and resources to lead department (Lundin, 2007:631).

Before the policy can be implemented, interest groups must mutually agree and support the implementation. Therefore, policy implementers will not encounter resistance during implementation (Sabatier & Mazmanian, 1980:541).

Since the success of immigration formulation and implementation involves the participation of clients/coalitions, this research aimed to determine the level of participation of clients/coalitions in improving the implementation of the policies within the DHA. The participation of clients/coalitions will be through the case study that will be provided in Chapter 4.

### **2.5.6 Communication**

Communication is a critical variable in all the stages of public policy implementation. Communication was added as the sixth variable to the original 5-C Protocol variables (Burger, 2015:29).

According to Okumus (2003:871-882), prior to policy implementation, communication is a critical variable in ensuring that the objectives of the policy are carried out as intended. Communication refers to the way in which organisations formally and informally communicate policy actions and directions internally and outside the organisation. “Communication could be top-down, bottom-up, lateral, formal, informal, internal, external, one-time or continuous. For a policy to be effective, clear messages must reach all implementation officials” (Okumus, 2003: 871-882).

Cloete et al. (2018:212) explain the need for effective communication in public policy implementation particularly in a country like South Africa, which has a rich history of cultural

diversity and eleven languages are recognised as official languages by the Constitution (1996). Through communication, transparency and good governance will be ensured with all stakeholders participating in policy implementation. This, could enhance organisational legitimacy, and eliminate the stigma of xenophobia which is associated with South Africa (Cloete et al, 2018:212).

According to Brans and Gelders, quoted by Cloete et al. (2018:212), public communication about policy intention affords the leadership of the organisation an opportunity to clarify the good intentions of policy they are intending to implement. It is important for the government to communicate policy direction or implementation to avoid contradictions by ensuring coherence in the actions taken by various public and private entities in policy implementation processes. The social and technical problems could be solved by policy instruments and can legitimise the implementation of policy programmes and projects (Meyer, 2002). Moreover, Meyer (2002) argues that communication about policy intention reduces or avoids unintended consequences that the policy implementation might create later, such as surprise, misunderstanding, resistance, frustrations and speculation among citizens and organisations. If the DHA had developed communication policy, inefficiencies identified in Chapter 3 and 4 could be avoided because immigrants will follow the proper process of communicating with the DHA.

Communication in policy implementation is embodied in the tangible tools that convey information. It is actually the glue that binds internal and external stakeholders to the vision, mission, goals and activities of the organisation. Moreover, it is beneficial to policy implementation in that it engages the hearts and minds of all stakeholders (Meyer, 2002). The DHA is yet to develop its internal communication policy, instead it uses the communication policy framework from the Government Communication and Information System in managing both internal and external communication. The DHA uses the following procedures and platforms to communicate its message to both internal and external clients: Ikhaya magazine, Circulars, Directives, DHA Website, Home Affairs Today; newsletter by the Minister of DHA, Home Affairs Now; newsletter by the Deputy Minister of the DHA, Notes from the DG; news letter from the DG of DHA, Intranet; platform for emails and policies and staff meetings. Thus, this research will determine the effectiveness of these communication procedures and

platforms across all levels and structures of immigration policy implementation, and will assist the researcher in drawing relevant conclusions and recommendations.

### **2.5.7 Coordination**

Worldwide, coordination in public policy implementation is progressively becoming an alternative approach to involve all role player for effective implementation (Kamuzinzi, 2019: 3). This push towards more institutional interconnectedness can be observed at all levels from national to local levels. Coordination are at work both in developed and developing countries.

Robison et al. quoted by Cloete et al. (2018:212), defines coordination as the “action of coordinating harmonious combination of agents and functions towards the production of a results”. This assertion relates to managing intra- and inter-organisational coordination and cooperation in policy implementation. Cloete et al. (2018: 212) further explain that “intra-organisation coordination refers to the working relationship among departments and agencies within the same organisation, whereas inter-organisational coordination refers to the working relationship among various organisations such as, for example, coordination between government, NGOs and donors”. This means coordination will allow the understanding of the whole process of immigration policies from the beginning to the end by all involved.

Pelkonen, et al. (2008: 241) define policy coordination as a situation during which policies or programmes collegially and coherently complement each other. What is important to policy coordination is to ensure that there is no overlap, conflict and inconsistencies and the broader not narrow government perspective is promoted during implementation.

Existing literature describes coordination as sorts of clusters or assemblages of organisations connected to each other by their dependencies on resources to achieve common results (McGuire & Agranoff, 2011: 273). Hence, public policy implementation through coordination can sometimes involves interconnected public and private agencies sharing information, resources and services.

Kamuzinzi (2019: 05) argues that during the coordination process, it is important to identify key actors that will ensure added value to public policy implementation and tapping in their resources. Providing a framework for the coordination means encouraging and shaping their

interactions by helping them to establish not only shared policy targets but also shared rules and norms of cooperation. Agranoff and McGuire (2003:1410), described mobilising coordination members as putting in place motivating strategies that increase the commitment of those involved to accomplish shared objectives.

Coordination can be classified as horizontal and vertical, and it is important to ensure that important messages are carried across effectively to all participants in policy implementation. “Vertical coordination refers to managing relationships between various levels of government and proceeding from priority setting to policy implementation, whereas horizontal coordination refers to the management of interdependent policies across state administration” (Pelkonen et al, 2008: 241).

The research will therefore establish the effectiveness of coordination within the DHA and amongst the various stakeholders in the implementation of immigration policies, and the contribution expected from other government departments and NGOs.

## **2.6 Chapter conclusion**

The objective of Chapter 2 was to review the literature on policy implementation in general and to assist the researcher to gain insight into the policy implementation process, particularly with regard to the identified 7-C Protocol variables. This review showed that there are several approaches to successful policy implementation, and more still need to be done to develop and improve effective implementation.

The literature review on public policy implementation revealed that there are many theories on public policy implementation. Moreover, the multi-level nature of policy and complexities of policy implementation is influenced by a number of variables that need attention, and a lack of attention to those variables might lead to policy failure. What is crucial during policy implementation is the policy outcomes. It is about getting all inputs from those affected by the outcomes of the policy, therefore taking their needs as the primary priority for government administration. Using the 7-C Protocol variables will facilitate the practical understanding of how to influence the policy to meet the implementation goals. It provides a useful basis for better understanding during implementation process.

This chapter emphasised that for policy to be implemented effectively, administration must take into cognisance the crucial role of the external environments, including legislation, technology, administrative capacity, traditional or cultural beliefs, politics, diversity, and finances.

The chapter also emphasises that policy implementers also need to possess administrative skills such as an understanding of immigration laws, the process of policy implementation, international treaties and so forth to ensure that all processes are implemented according to the goals formulated by the policy designers. The importance of the variables relating to communication, clients/coalitions, commitment and coordination cannot be overemphasised in policy implementation because the possibility of failure is greater without them.

The next chapter will identify key legislative and policy frameworks for the implementation of immigration policies in the DHA.



## **Chapter 3: Legislation and implementation frameworks for immigration policies in South Africa**

### **3.1 Introduction**

Chapter 2 of this research reviewed the literature to gain understanding of the theoretical perspectives and complexities in the implementation of public policies including the 7-C Protocol variables. What emerged from the literature was that for the immigration policy to be implemented successfully, a coordinated policy response and multi-level intervention is necessary. The literature further revealed that variables such as content, context, commitment, capacity, clients / coalitions, communication and coordination impacts the implementation.

Building on this understanding, Chapter 3 discusses the contextual and legislative background to immigration policy implementation within the DHA. It also describes the policy process and links it to the practical applications explored in the theories presented in Chapter 2. Thus, this chapter focuses on legislation and implementation frameworks that supports the topic. Moreover, this chapter assesses at the policies and regulations that informs planning of immigration policy implementation at the DHA.

Carciotto et al. (2016: 7) explain that the law- making process in South Africa begins with the drafting of a policy. A document called a Green Paper will be crafted and published for discussions with formative ideas and themes by the Ministry responsible. After inputs are made, a White Paper will be developed and adopted by Parliament, thereafter, a Bill will be drafted and presented by the responsible Ministry in Parliament. If the Bill is adopted, it will be gazetted and given a number. Further consultation will then continue through the National Council of Provinces for concurrence and once the two houses of Parliament agree on the contents of the Bill, the State President will sign it as the law of the country.

### 3.2 The policy making process

The policy making process is a “series of integrated intellectual activities carried out within a set of actions that is essentially a political series or cycle of interdependent phases” (Cloete et al, 2018:47).

Cloete et al. (2018:47), explain that the policy making process is a result of operations between government institutions and their interactions with other structures and interested bodies in society. Cloete et al. (2018:47), further explain that the “policy cycle model focuses on a series of systematic, sequential and linear processes that need to be completed by the decision maker in order to create a coherent and effective policy”.

There are various policy process models and theories of policy development; however, Hogwood and Gunn (1984:4), quoted by Cloete et al. (2018:47), identify the following stages:

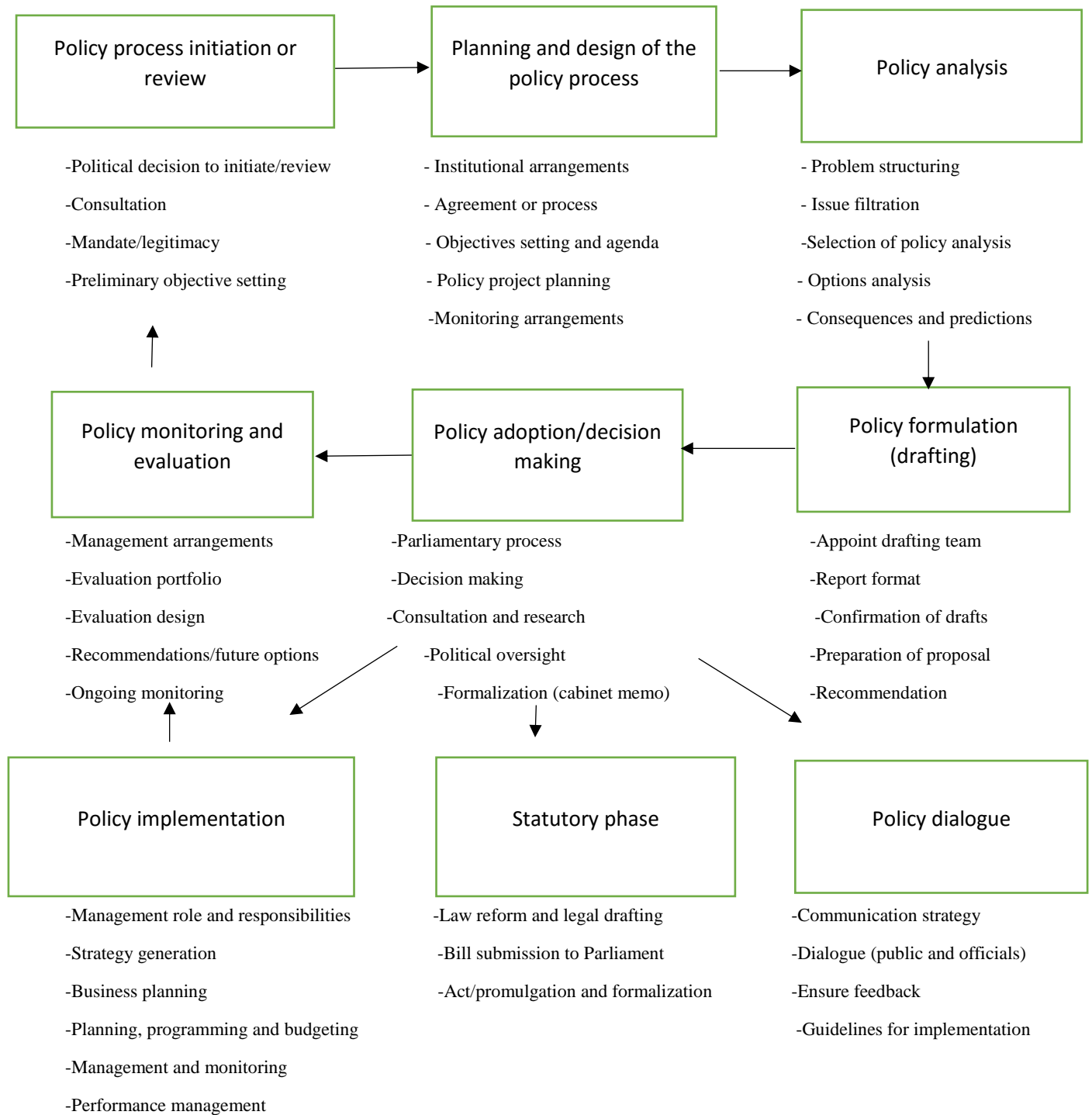
- a. “Deciding to decide (issue search or agenda setting, deciding how to decide or issue filtration)
- b. Issue definition
- c. Forecasting
- d. Setting objectives and priorities
- e. Options analysis
- f. Policy implementation, monitoring and control
- g. Evaluation and review
- h. Policy maintenance, succession or termination”.

De Coning (1995), as quoted in Cloete et al. (2018:50), formulated a generic process model that integrates the existing process model into a synthesised one.

The generic process model is depicted in figure 3.1:

**Figure 3.1: Phases of the generic policy process model**

Source (Cloete et al, 2018:50)



The figure above depicts the generic process with a set of phases as follows:

- a. "Policy initiation.
- b. Policy process design.
- c. Policy analysis.
- d. Policy formulation.
- e. Decision making.
- f. Policy dialogue.
- g. Implementation, monitoring and evaluation".

The model has both advantages and disadvantages. The advantages are that the stages of the model, through which the policy is developed, are clearly defined. The disadvantage is that it does not provide details on all the activities that should be attended to in each phase. For policy implementation to be effective, policy formulation and implementation must go through all the phases of the process.

In policy process development, the following DHA document are critical to inform what the policy should include: DHA- Strategic Plan 2015-2020, the National Development Plan (NDP), the Constitution (1996), the White Paper on Refugees (1998), the White Paper on Immigration (1999) and (2017), the Immigration Act (2002) and the Refugees Act (1998).

### **3.3 DHA- Strategic Plan 2015-2020**

The strategic initiative regarding immigration at the DHA is the adoption of a comprehensive government approach in managing immigration by updating immigration policies to maximise the safety and security of the country.

The approach led to the establishment of the Border Management Authority<sup>3</sup> (BMA) (DHA- Strategic Plan, 2015-2020: 2). The key objective of the BMA is to merge various organ of state in one entity that will manage all borders of South Africa. This strategy is aimed at exploring and implementing innovative ways of ensuring that trade, particularly within the rest of Africa is facilitated and the required revenue is generated without compromising the security of the

---

<sup>3</sup> "Organ of state established as a national public entity in terms of Schedule 3A of PFMA 1999, outside of the public service, and as an armed service in terms of section 199(3) of the Constitution".

country (DHA-Strategic Plan, 2015-2020:2). During the writing of this research, the Border Management Authority Bill was before parliament for approval.

The DHA also supports the objectives of the NDP by seeking to improve access and efficiency to services while reducing the costs of those services. “This will enhance service delivery and attract foreign direct investment and critical skills, thus enhancing South Africa’s economic competitiveness” (DHA-Strategic Plan, 2015-2020:3).

The following are strategic goals for immigration for 2015 to 2020 (DHA-Strategic Plan, 2015-2020: 3):

- “To protect the integrity of South African citizens, systems, services and infrastructure.
- To achieve national goals by using immigration strategically and securely through proper documentation that facilitates rapid entry and exit of legitimate visitors in the country.
- To determine the status of asylum seekers securely, humanely and efficiently; and to ensure that refugees are assisted in a coordinated way by the state and NGOs”.

The national agenda of the DHA for 2015-2020 is to implement the NDP to achieve the national outcomes of government by reducing the high unemployment rate, poverty and inequality by 2030 (DHA-Strategic Plan, 2015-2020:20). The following conditions are necessary for the successful implementation of the NDP by the Immigration Services (DHA-Strategic Plan, 2015-2020:20):

- Facilitate efficient entry and stay of migrants in South Africa with critical and exceptional skills to enable economic growth.
- Establish efficient and effective movement of people particularly within the SADC for regional development.
- Maintaining social stability by ensuring that immigration is effectively managed.
- Introduce e-government to reduce fraud and the cost of doing business through modernisation programmes, and thus attract more foreign direct investment.

### 3.3.1 The Medium Term Strategic Expenditure Framework

The 2014-2019 Medium Term Strategic Framework targets in support of the NDP are as follows (DHA-Strategic Plan, 2015-2020:23):

- “To establish the integrated Border Management Authority and be operational before 2020.
- To develop and approve over-arching strategy to defend, protect, secure and ensure well-managed immigration by 2018/19.
- To have all designated ports of entry equipped with biometric systems capable of processing 100% of travelers by 2018/19.
- To improve regulations to allow ease of importing critical skills”.

Applying the 7-C Protocol, this research seeks to assess the institutional readiness of the Immigration Services to implement policies. Before the policy is implemented, all implementation actors must understand the strategic direction of the DHA.

## 3.4 The Constitution of the Republic of South Africa (1996)

The DHA Strategic Plan, focused at the planning of the DHA for the period of five years. It included how the DHA is planning to support the programmes of government well as the government outcomes such as supporting the NDP. This section discusses the importance of the Constitution (1996), the supreme law of the country.

All laws developed in the country must be aligned to the provisions of the Constitution (1996) and if not aligned, are invalid. South Africa is a unitary state; however, provinces are allowed to create their own laws that are applicable to them, but must still be aligned with the provisions of the Constitution (1996) (Musuva, 2015:84). It is through the Constitution (1996) that three spheres of government are established, namely: the national, provincial and local sphere. The functions of the DHA are located at the national sphere.

The development of the immigration and refugees’ policies must be aligned to the provisions of the Constitution (1996) and international conventions.

For the immigration policies to be successfully implemented, the DHA must engage interest groups such as NGOs to avoid policy failure and policy challenges in the implementation.

Chapter 2 of the Constitution (1996) contains the Bill of Rights, which is the cornerstone of South Africa's democracy as it provides clarity regarding the rights of both citizens and non-citizens. Albertyn (2008:178) explains, that all people in South Africa including foreigners' rights are protected under the Bill of Rights. The Bill of Rights are consistent with the 1948 Universal Declaration of Human Rights. The Bill of Rights emphasises non-derogable rights including human dignity and right to life. However, there are rights that are limited in terms of Section 36 of the Constitution (1996). "Some of the rights may be limited in terms of law of general application that is reasonable and justifiable in an open democracy based on human dignity, equality and freedom, taking into account all relevant factors" such as (1996):

- "The nature of the right;
- The importance of the purpose of the limitation;
- The nature and extend of the limitation;
- The relation between the limitation and its purpose; and
- Less restrictive means to achieve the purpose".

The usage of language is common to all in a diverse country like South Africa which recognises eleven official languages (Amisi & Ballard, 2006: 301). Section 9(3) of the Constitution (1996) stipulates that the "state may not unfairly discriminate directly or indirectly against anyone on one or more grounds including sex, race, gender, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth" (RSA, 1996).

For this research, it is important to understand that inasmuch as the Bill of Rights protects everyone in the country, there are exclusive rights for South African citizens that foreigners are not entitled to, such as the right to vote in national and local elections and to carry South African passports. However, immigrants in the country enjoying the same rights as citizens has been contested, and the courts have been consulted many time to make a ruling on this matter. Section 33 of the Constitution refers to "Just administrative action" for everyone in the country, and migrants are entitled to this like South African citizens.

This research posits that to grant or not to grant visas or permits cannot be considered discriminatory because applicants must meet and satisfy set requirements before a positive decision is taken on their applications, and if an adverse decision is taken, an applicant must be provided with reasons. According to Albertyn (2008:178), “the Constitutional Court of South Africa has established citizenship or nationality as prohibited ground of discrimination in South Africa and confirmed foreign nationals as part of the community of people protected by the Constitution”.

The Constitution (1996) also lays down a principle that has a direct implication on issues of immigrants. Section 39(1) (b) of the Constitution (1996) explains that “the Bill of Rights must be interpreted in accordance with international law, which stipulates that each country is free to determine its own rules regarding the acquisition and loss of citizenship, entry and residence of foreigners” (RSA, 2017:19).

Chapter 2 of the Constitution (1996), provides various rights including the rights of immigrants in the country. It is therefore the obligation of the DHA to ensure that all immigrants in the country exercises their rights as prescribed by the Constitution (1996) and various international instruments without fear or favour. Using 7-C Protocol, this research will determine how effective the DHA is to carry out its constitutional duties and statutory obligations.

### **3.5 The development of immigration policies**

The development of immigration policies is a complex process influenced by many factors, including domestic and international trends and pressure. The president of the country plays an integral role in the legislative process and he can be viewed as a policy adopter in his own right after signing it. Therefore, immigration policies should reflect “national political coalitions committed to one policy or another, and the structure of state institutions” (Freeman, 1992:1145).

South Africa’s new immigration protocol started by using the Aliens Control Act (1995) which was described as “one of the dying acts of apartheid” (Hart, 2013:171). It was the main legislation for immigration until the Immigration Act (2002) was enacted. Nevertheless,



substantial resources were already committed to formulate new laws and policies on migration. The new laws started with the amendments of the old Aliens Control Act (1995), the development and adoption of the Green Paper (1997), and White Paper on International Migration which led to the development of an Immigration Bill that was released in 2001, and was signed into law and became Immigration Act No. 13 of 2002. The Refugees Act (1998) was also adopted as the law that regulated asylum and refugees in the country.

In assessing immigration policy implementation, this research will determine gaps during implementation and suggest recommendations for better implementation using the 7-C Protocol variables. The evolution and the development of both immigration and refugees legislation is presented in the next section.

### **3.6 The Green Paper (1997) and White Paper (1999) on International Migration**

In May 1997, a Green Paper on International Migration (1997) was published. It was underscored by the dual principles of ensuring that the system of immigration in South Africa is planned in an efficient way to achieve the national interest of the country, on the one hand, and of the undesirability of unauthorised migration, on the other. The Green Paper (1997) suggested that if migration of people into the country is planned, development and economic growth opportunities will be created, and as such it could be viewed as a vehicle for job creation and nation building rather than a security risk and impediment.

The Green Paper (1997) and the White Paper on migration (1999) are contradicting each other (Neocosmos, 2010:78). Neocosmos highlights the following concerning the Green Paper (1997):

“The build-up to the publication of the Green Paper rightly gave the impression that it would suggest the liberalisation of the current existing law. Given the extremely repressive character of existing legislation, only liberalisation had any meaning, so that the publication of the Green Paper was hailed as signaling a break away with the racist past in that it recognised that migrants and immigrants can be an asset to South Africa”.

Instead of accepting migrants as assets to development and economic growth, the intent of the White Paper (1999) thus reflected the intention to reduce unskilled and illegal foreigners in the country and police those that have legal status. As Duncan (2015) quoted by Carciotto and Mavura (2016:8) explains, “the White Paper (1997) emphasizes the exclusion of foreigners and follows the approach of us and them nationalism, premised on sealing South African identity up from influences from the rest of the region”.

Carciotto and Mavura (2016: 8) explain that the Green Paper’s recognition of migrants as assets was a move in the right direction. Furthermore, the Green Paper (1997) proposed that the problem of illegal migrants particularly from SADC countries who are not intending to reside in the country permanently, must be regularised and given increased opportunities to participate in the labour market.

The real intention of the Green Paper (1997) was to exclude migrants from employment opportunities in the country and other free public services that they could not access in their home countries. The White Paper (1999) aimed at drastically reducing the number of unskilled foreigners and argued for a highly restrictive migration policy (Carciotto & Mavura, 2016: 8).

Carciotto and Mavura (2016: 8) explain that the White Paper (1999) described a threat posed by the presence of migrants in the country, as they were deemed to be adding pressure to services that the government of South African had to provide for its people. The White Paper (1999) further recommended the exclusive admission of migrants with financial capital and critical skills from Africa and the world and apply close monitoring to those already in the country (RSA, 2017:4).

### **3.7 The White Paper on International Migration (2017)**

The DHA has been using the 1999 White Paper on International Migration in the implementation of immigration policies. In 2014, it started with the process to review the 1999 White Paper with the aim of introducing a new White Paper on International Migration. The White Paper on International Migration (2017) was approved by Cabinet on 29 March 2017 (DHA-Annual Report, 2016-2017:82). The review of the 1999 White Paper was as a result of serious shortcomings that did not assist the Republic in embracing available international opportunities. The review was aimed at ensuring the safety of the country and the security of

its borders. The White Paper (1999) also reduced the management of immigration to compliance rather than managing it strategically (RSA, 2017: 2).

Some of the content of the White Paper (1999) was incorporated into the new White Paper on international migration (2017). The new White Paper (2017) seeks to address serious policy gaps identified in the White Paper (1999). The restrictive nature of the 1999 White Paper served to encourage illegal migration, whereas, the White Paper (2017), seeks to embrace global opportunities that come with skilled migrants from diverse backgrounds (RSA, 2017: v)

The achievement of national goals is embedded in the strategic paradigm that is set out in the White Paper (2017) on the management of international migration. The White Paper (2017) advocates for an comprehensive government approach in the management of international migration which is in line with the objectives of the NDP. The strategic intervention in the White Paper recommends the following policy areas:

- “management of admissions and departures;
- management of immigrants with critical skills and capital;
- management of international migration within the African context;
- management of asylum seekers and refugees;
- management of the integration process for international migrants; and
- management of effective enforcement”.

After South Africa became a democratic country in 1994, it became global centre and it needed to be connected to other nations and benefit from well managed migration. Moreover, the White Paper on International Migration (2017) seeks to ensure that processes to manage immigration are in place to achieve that objective.

### **3.8 Immigration Legislation**

#### **3.8.1 The Immigration Act No.13 of 2002**

The purpose of the Immigration Act (2002) is to regulate the entry of immigrants, their stay in the Republic, their departure and any matter connected with migration. The immigration system control is aimed at ensuring the following (RSA, 2002):

- Temporary Residence Visas and Permanent Residence Permits are issued efficiently without delay to all immigrants who meet the standard requirements;
- High level of security considerations are fully satisfied; the state retains total control over immigrants in South Africa and extensive coordination and consultation of all stakeholders is maintained to enrich the functions of immigration control;
- Attract and facilitate foreign direct investment and critical skills;
- Efficient administration, facilitation and management of entry and departure of all immigrants at all ports of entry;
- Administrative capacity is deployed to effectively and efficiently enforce immigration laws;
- Engage with other states to address the push factors of illegal immigration;
- Performing immigration control within the highest applicable standards of human rights protection in line with the laws of the country and international laws.

The Immigration Act regulates the following Temporary Residence Visas from Section 11 to 23 of Act (RSA, 2002): visitors; study; treaty; business; crew; medical treatment; relative; work; retired person; corporate; exchange and asylum transit.

A Permanent Residents Permit is provided in Sections 25, 26 and 27 of the Immigration Act (RSA, 2002), which are as follows:

- Section 26 Direct residence.
- Section 27 Residence on other grounds.

Those who qualify for a Permanent Residence Permits include:

- Immigrants who have been in the country with a work visa more than five years.
- A spouse with a valid visa of more than five years of a South African citizen or permanent resident.
- A child of a South African citizen or permanent resident under the age of 18.
- A person falling within the critical skills category.
- A business person who wishes to establish a new business, or invest in an existing one.
- An indefinite refugee in terms of Section 27(c) of the Refugees Act.
- A retired person with a stable pension income.
- A financially independent person.

- A relative of a South African citizen or legal permanent resident within the first step of kinship.

### **3.8.2 The Immigration Amendment Act No. 19 of 2004.**

According to the Catholic Parliamentary Liaison Office, as quoted by Carciotto and Mavura (2016:28), the Immigration Act of 2002 needs thorough appreciation of regulations so that implementation is understood by all implementing actors including passive recipients. Furthermore, this law requires rigorous monitoring and evaluation to ensure that it achieves its objectives. In his submission to the National Council of Provinces on 26 August 2004, the then Deputy Minister of Home Affairs, Mr. Malusi Gigaba (MP) referred to the Act and stated the following: “the amendments to the Immigration Act of 2002 were necessary because the immigration policy that will facilitate economic development, attract foreign skills and investment, and reflect South Africa’s commitment to human rights and the security of citizens and residence was needed” (Carciotto & Mavura, 2016:28) In addition, he said that “immigration policy should be consistent with foreign policy objectives, particularly with regard to the SADC countries and the continent” (Carciotto & Mavura. 2016:28).

Civil society were involved in presenting submissions to the development of amendment of the Immigration Act (2004). The Home Affairs Portfolio Committee was under the control of the African National Congress led government, having been previously under the control by the Inkatha Freedom Party, which opened the way for more transparency. However, this amendment also gave the Minister of Home Affairs the power to develop regulations, which led to less consultation and communication with civil society than was prescribed by the Immigration Act of 2002 (Carciotto & Mavura, 2016:29).

The reflection of the three options the ANC government had chosen in 2002 was reflected in the Immigration Amendment Bill (2004). Segatti (2011:45) explains these as follows: The first is the “option of minimal constitutional conformity, that is, an alignment with constitutional rights, such as a spouse’s rights or that of homosexual couples. The second is the pursuit of a dual system of limited, permanent highly skilled immigration and temporary, lower-skilled migration, mainly through corporate permits. The third is the retention of power, mainly through government services and the concentration of power in the DHA”. The next

amendments were made on Immigration Act (2007) and (2011) to close the gaps that were identified with regard to the abuse of immigration legislation.

### **3.8.3 The Immigration Amendment Act No. 03 of 2007 and Immigration Amendment Act No. 13 of 2011**

The signing of the Immigration Amendment Acts 2007 and 2011), brought far-reaching changes within immigration services, making access to the asylum system more difficult. Firstly, it reduced the duration of the Asylum Transit Visa commonly known as the Section 23 Asylum Transit Visa to five days from 14 days. The amendments also meant that applicants must show up in person when applying for any visa or permit as the right of being represented by immigration practitioners was scrapped by the new Amendment Act of 2011.

With the new amendments, immigrants with visitor's visa and medical treatment visas were prohibited from changing their visa conditions while in the Republic save for children and spouses. Instead, they were expected to go back to their country and make new applications. For example, an immigrant was allowed to change a visitor's visa to a work if he/she gets a job while in the country. The changes were made because changes made to their visas while in the country were misleading in terms of the real purpose and reasons for the foreigner entering South Africa (RSA, 2002).

The purpose of the Immigration Act (2002) provides regulatory framework for migrants on how to regulate entering the country, their stay in the country and their departure. It provides the requirements of how immigration implementers are expected to implement the Act and the capacity and resources required during implementation.

For this research it is necessary to understand the capacity constraints, context and commitment by policy actors because Chapter 1 provided challenges in the effective implementation of immigration policies. And to realise this, also requires research among immigrants and their participation is represented by the newspaper article in Chapter 3 and the case study in Chapter 4.

### 3.9 The development of Refugee policy

#### 3.9.1 The Conventions on Refugees

The Geneva Convention on the Status of Refugees (1951) is one of the international laws that defines who is a refugee, who qualify to be a refugee<sup>4</sup> and it stipulates conditions and responsibilities to the host countries on how to manage asylum seekers<sup>5</sup> and refugees. The Geneva Convention (1951) advocates that refugees must not be discriminated against, they must not be returned to their country of origin - non-refoulment<sup>6</sup> and they must not be penalised arbitrarily even when they entered the host country illegally without legal documents (UNHCR, 2011: 1). The objectives of Geneva Convention (1951) was to protect European refugees who were displaced by World War II. The second international law on refugees was the Protocol (1967). The objectives of the Protocol (1967) was to remove geographical limits of who qualify to be an asylum seeker or refugee. Geographical limits were imposed by the Geneva Convention (1951), which considered only people from European countries as refugees. The OAU Convention (1969) considers refugees displaced by civil wars in the continent of Africa.

The Geneva Convention (1951) came into effect on 22 April 1954, and the Protocol (1967) on 4 October 1967 and South Africa became a signatory for both the 1951 Convention and 1967 Protocol on 12 January 1996, and is obligated to implement all its provisions (UNHCR, 2011:69). South Africa became a signatory of the OAU Convention (1969) on 6 June 1994.

After South Africa signed these various conventions, it started with the process of developing its own refugee policy with the White Paper (1998) on refugees which became the Refugees Act No. 130 of 1998.

---

<sup>4</sup> An immigrant who has been granted asylum in the Republic

<sup>5</sup> An immigrant seeking recognition as a refugee in the Republic

<sup>6</sup> Refoulment is the illegal return of an asylum seeker to a country in which he/she might face persecution. It is against the principles of the Geneva Convention (1951).

### **3.9.2 The Refugees White Paper (1998)**

South Africa did not accept asylum seekers and refugees prior to 1998. The system of protecting those seeking asylum came after the development of the Refugees White Paper (1998). It followed the ratification of a number of international instruments that focused on issues that affect refugees, such as the Geneva Convention (1951), the Protocol (1967) and the OAU Convention (1969) (Musuva, 2015:23). After the White Paper (1998) was developed, a Draft Refugee Bill was also developed. Following several amendments, the Bill was adopted and became the Refugees Act, No. 130 of 1998.

The Refugee White Paper (1998) was crafted in compliance with international instruments including the Universal Declaration of Human Rights (1948). It defines the qualification requirements of asylum seekers and refugees and stipulates the conditions for those not qualifying for asylum. The Refugee White Paper (1998) also highlighted the expected treatment of asylum seekers and refugees in host countries, including the application and enforcement of principles of non-refoulment and non-prosecution based on illegal entry or lack of legal documentation in the country (Musuva, 2015:23).

### **3.9.3 The Refugees Act No. 130 of 1998**

The Refugee Act was adopted in 1998 to ensure that South Africa comply with the obligations as set out by the Geneva Convention (1951), the Protocol (1967) and the OAU Convention (1969). It aimed to make provision for the regulation of asylum seekers from when they enter the country until their status is determined RSA (1998).

The circumstances under which asylum seekers may qualify for asylum status was clearly defined in the Refugees Act of 1998. “The Act also provides for the establishment of Refugee Reception Offices (RROs) also known as Refugee Reception Centres staffed by Refugee Reception Officers (RROs) and Refugee Status Determination Officers (RSDOs)” RSA (1998).



The main consideration for the granting of refugee status is “a well-founded fear of being persecuted for reasons of race, tribe, religion, nationality, political opinion, sexual orientation or membership of a particular social group that is not recognised in that country” (RSA, 1998). Asylum seekers can only apply for asylum if they are outside of their own countries and are not willing to go back to those countries (RSA, 1998).

The following categories of migrants are excluded from applying for asylum (RSA, 1998):

- “A person who committed a crime against peace, a war crime or crime against humanity, as defined in any international legal instrument dealing with any such crimes.
- An individual who committed crime that is not of a political nature and for which, if committed in South Africa, would have been punishable by imprisonment”.

Some asylum seekers come into the country at the designated ports of entry. There are issued with a Section 23 Asylum Transit Visa and they are expected to visit the Refugee Reception Centre within five days. Some asylum seekers enter to the country illegally, however, they are still expected to submit their applications at the DHA Refugee Reception Offices or Centres.

The process of regularising asylum seekers starts when they submit their asylum application at the Refugee Reception Centre (see Figure 3.2). Once the application is captured on the National Immigration Information System, and due diligence conducted on the application, a Section 22 permit will be issued to the applicant. The permit allows the holder to work and study while the Refugee Research Unit investigates the content of the asylum seeker’s application from his/her country of origin (RSA, 1998:16).

A Section 22 Permit is a valid permit that expires after six months (180 days), and thereafter a final decision should have been taken within that period to either grant or decline the asylum seeker’s application (RSA, 1998). If the decision is not taken within six months, the expiry date will be extended on the Section 22 Permit, until a decision is taken. This can take years before the decision is taken owing to the number of applications received and backlogs currently experienced at the Refugee Reception Offices. The country of origin research, is conducted through computer desktop research. Assistance is rendered by from the Department of International Relations and Cooperation and officials deployed in different embassies and consulate offices across the world (RSA, 1998:16).

Since South Africa does not provide refugee camps, once asylum seekers are issued with Section 22 Permits, they are allowed to integrate into society and to be self-sustainable and sufficient by seeking work while in the country, they are also allowed to study (Musuva, 2015:89).

Some of the challenges experienced by asylum seekers is noted in the letter below that was sent by Lawyers for Human Rights to the President of South Africa:

**Scathing letter to the president of the country by Lawyers for Human rights. 20 June 2018. Linda Ensor. Times Live.**

In a scathing letter sent by the Lawyers for Human Rights to the President of the Country, Mr. Cyril Ramaphosa, the NGO alleges that the DHA's Immigration Services through its "many harmful, unlawful and cruel practices and policies" disregarded the values of the Constitution (1996) and the country's statutory laws and failed to comply with the United Nation's and African Union's Conventions on refugees, which South Africa signed after the fall of apartheid (Ensor, 2018).

The NGO claimed that the abuse came as result of unlawful refusal to renew asylum permits; the unlawful denial of the right to apply for asylum; ignoring the best interest of the child; disregarding court orders; denial of the constitutional right to dignity and family life; and detention of asylum seekers by officials at Refugee Reception Centres (Ensor, 2018). The NGO further says, a High Court ruling in 2013 which held that children must first and foremost be documented by the DHA has never been implemented and the matter remains on appeal.

The NGO also argued that the DHA has monumentally failed to manage asylum seekers and refugees in line with the Constitution (1996), Refugees Act (1998) and various international conventions. Many asylum seeker's applications have not been finalised after many years residing in South Africa, some have already spent between 10 to 15 years in the country.

The scathing letter highlighted some inefficiencies and challenges in the management of asylum seekers in the country, it also highlighted some institutional challenges in dealing with the huge number of asylum seeker applications.

This letter highlights gaps in the implementation variables such as content, context, commitment, capacity, communication, relationship with clients/coalition and communication.

The letter reflects that implementers seems to have little understanding of the objectives of refugee policies including the Constitution (1996) and various international conventions. Also, it seems that Refugee Reception Offices are not ready and equipped to manage the huge number of asylum seekers. Refugee Reception Officials tend to adopt other measures such as arbitrarily refusing to renew permits which lead to the arrest, detention and possibly deportation of immigrants the country is expected to protect. To ensure better management of asylum seekers, the new Refugees Amendment Act No. 33 of 2008 was introduced and it is discussed in the next section.

#### **3.9.4 The Refugees Amendment Act No. 33 of 2008**

The Refugees Amendment Act No 33 of 2008, was formulated to transform and streamline the refugees' status determination process. However, the process of determining the status of asylum seekers in the country remained a "complex, tedious and contentious issue" for both asylum seekers and officials working at Refugee Reception Offices. Moreover, asylum seekers are being inconvenienced by the delay in the adjudication of their applications and their status remain uncertain for a very long period with a direct negative impact on their socio-economic livelihood (RSA, 2008). In this regard, when the then Deputy Minister of the DHA, Mr. Malusi Gigaba, (MP) addressed parliament during a debate about the Refugee Amendment Bill, he remarked that "most immigrants enter the country irregularly, and should they realise the need to regularise their status, then they apply for asylum and, as a result, clog the asylum system" (Carciotto & Mavura, 2016:42). To ensure that administrative processes are followed in line with the Constitution (1996) of the country and various international conventions when dealing with rejected applications, another Refugees Amendment Act was introduced in 2011. It is discussed in the next section.

### **3.9.5 The Refugees Amendment Act No.12 of 2011**

The Refugee Amendment Act of 2011 was aimed at providing clarity on how to manage the rejection of applications that were adjudicated as manifestly unfounded<sup>7</sup>. This Act gave more power to the Director-General of Home Affairs to establish a Status Determination Committee; and also to decide when to withdraw the refugee status (Carciotto & Mavura, 2016:42).

The RSDOs are responsible to adjudicate asylum seeker's application and to grant refugee status in terms of Section 24 of the Refugees Act (1998), however, the Refugees Amendment Act (2011) recommended that the Status Determination Committee to be the one that decides on the application of asylum. Applications rejected as manifestly unfounded would be automatically reviewed by the Director General of the DHA (Carciotto & Mavura, 2016:42). To prevent asylum seekers from abusing the asylum regime, the 2015 Draft Refugees Amendment Bill was introduced, as discussed below.

### **3.9.6 The Draft Refugees Amendment Bill of 2015**

The purpose of the Refugees Amendment Bill (2015) was to introduce changes to the current asylum system, including limitations to the right to work for asylum seekers, as prescribed in the conditions of the current Section 22 Asylum Permit (RSA, 2015).

The Bill emphasised the re-establishment of the "Standing Committee for Refugee Affairs (SCRA)" to decide under which conditions asylum seekers can work or study whilst awaiting the outcome of their application (Carciotto & Mavura, 2016:43). Furthermore, the Bill gave powers to the DG of the DHA to revoke Section 22 of the asylum seeker, if the asylum seeker fails to provide proof of employment. Through the Bill, the Minister of the DHA was allowed to withdraw and cease refugee status in respect of certain categories of refugee individuals. It also sought to exclude those who fail to lodge an application for asylum within five days.

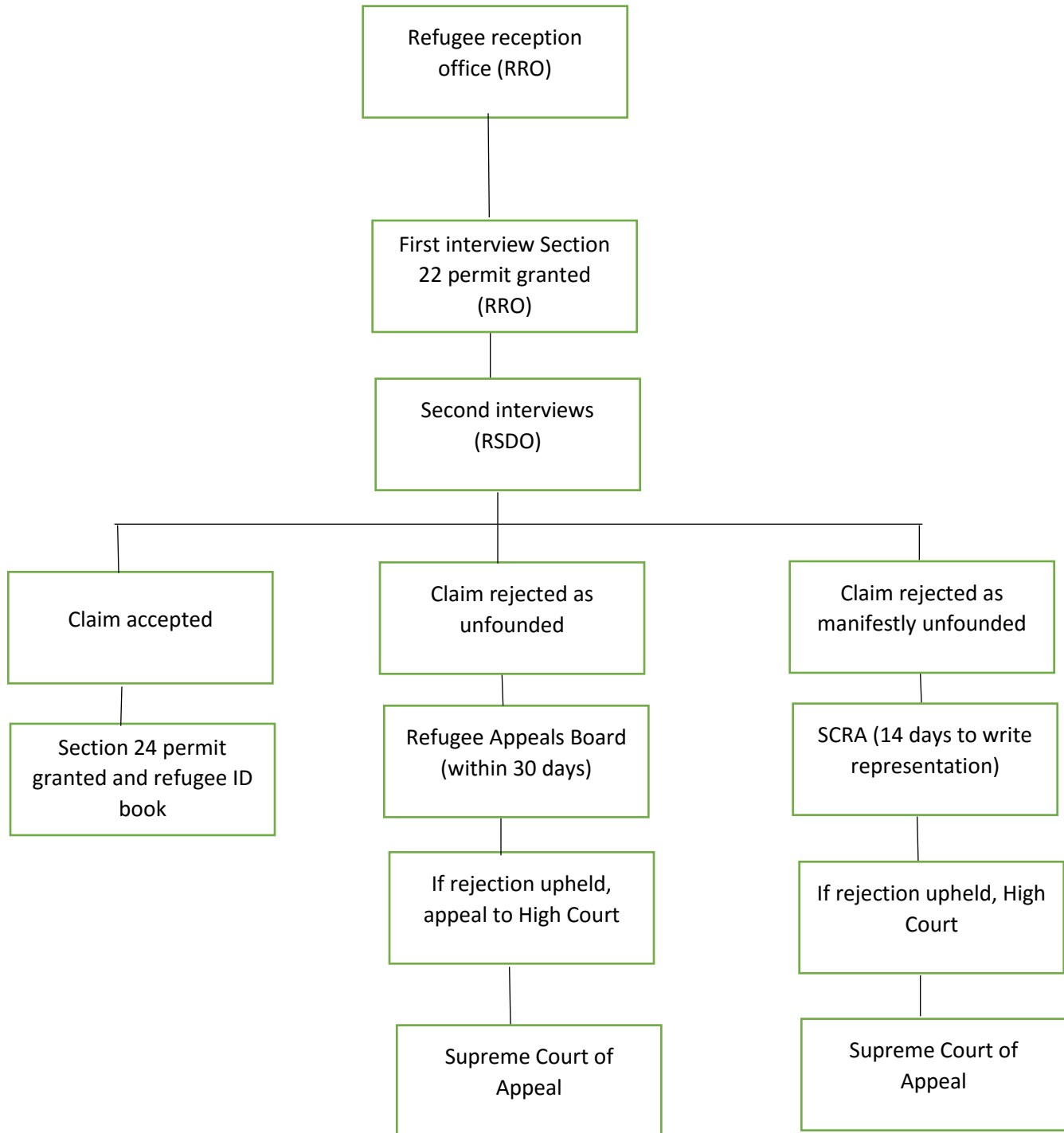
---

<sup>7</sup> Means an application for asylum which is based on false or fraudulent claim than those prescribed by UN Geneva Convention (1951).

### Figure 3.2. Refugee application process

Source: University of Cape Town, (n.d.)

The following represents the status determination process of refugees in South Africa:



### 3.10 Amnesty and undocumented migrants

Since 1994, there has been a marked shift in state discourse around immigration that now centers almost exclusively on the problem of undocumented migrants and immigrants. In practice, illegal immigrants are usually seen as African, and undocumented migrants from elsewhere are largely ignored. The state has a tough stance on policing, focusing on the arrest and repatriation of illegal immigrants, particularly those from Africa (Adepoju, n.d.:19).

From as early as 1996, the South African government implemented a number of immigration amnesties and dispensations. The first amnesty was between 1995-1996, offered to contract mine workers from the SADC who had worked and stayed in South Africa prior to 1994 (Adepoju, n.d.:20). Only 47 364 of the estimated 130 000 eligible miners applied and qualified for permanent residence status (Crush, 1999:125-151).

The second amnesty in 1996 was granted to illegal and undocumented citizens of SADC member states who had lived in South Africa for more than five years, and who had entered the Republic clandestinely during the apartheid era (Adepoju, n.d.:20).

The DHA continued to regularize immigrants who were in the country in contravention of the Immigration Act (2002), and the following two dispensations were established in 2008 for immigrants from Zimbabwe and in 2016 for immigrants from Lesotho.

- Dispensation of Zimbabwean citizens

This dispensation was launched for all foreigners from Zimbabwe who were not properly documented in the Republic, including teachers, business people, general workers and students at South African universities. After the dispensation was launched in 2008, more than 400 000 applications were received, but only 250 000 permits were issued, which became valid from 2010-2014. In 2015, the new Zimbabwean Special Permit was introduced to continue with the dispensation under a new permit. Of the original 250 000 applicants who were granted permits in the first dispensation, only 197 951 qualified for the new Zimbabwean Special Permit because the application process included the checking of criminal records of the applicants and not all qualified and some have already returned to their country and some were dead. The

Zimbabwean Special Permit became valid from 2015 until 31 December 2017. After the expiry of the Zimbabwean Special Permit, the Zimbabwean Exemption Permit was introduced in 2018. About 196 006 applications were received and 180 112 permits issued. The expiry date of the new permit is 31 December 2021 (DHA-Annual Report, 2017-2018:98). The permit holders are not eligible to apply for a Permanent Residence Permit using the dispensation permits. Instead, they are expected to go back to Zimbabwe to apply for the correct Temporary Visas in terms of the Immigration Act (2002) that allow them to apply for a Permanent Residence Permit after the prescribe period of five years.

- **Lesotho Special Dispensation**

The Minister of the DHA launched another special dispensation for illegal immigrants from Lesotho in 2016. Some Lesotho citizens were already working illegally in the Republic, including those doing business without legal documents and those studying without proper documentation. The conditions that were laid down were that they had to present their passports, whether legal or not when applying. Thus, those who did not bring their passports were excluded from the dispensation project. Only 94 941 permits were issued, despite a high number of Lesotho residents reported to be staying in the country illegally (DHA- Annual Report, 2017-2018:98). The permits were made valid from 1 May 2016 to 30 April 2020.

The provision of the dispensation is indicative of the problem of irregular migration in the country. Even when some of the illegal immigrants are deported, they soon find their way back into the country because some have already secure employment and are working in the country.

The question that this research seeks to answer is how effective is the immigration law enforcement in the country to manage the problem of illegal or irregular migration? Moreover, how are they monitoring and detecting those who are in the country illegally?

### **3.11 Chapter conclusion**

Chapter 3 analysed the legal context of immigration policy that regulates the rights and obligations of migrants in the Republic. The chapter analysed the following documents: the DHA-Strategic Plan 2015-2020; Medium Term Strategic Framework; the Constitution of South Africa; the Immigration Act; the Refugees Act; the Refugees Amendment Acts; and the

Immigration Green Paper (1997) and White Papers (1999). This legal context highlights South Africa's immigration policies that can be analysed within the framework that accommodates a series of contradictions of interests. This framework has yet to embrace the developmental nuances of historical and contemporary regional migration trends. Despite the immigration legislation amendments, the enforcement of the law to deal with all the risks associated with irregular migration still poses a challenge in the effective implementation of immigration policies.

The implementation of dispensation regimes highlights serious problem of irregular migration in the country and the DHA's Immigration Service is expected to address this problem to avoid problems such as xenophobia. With all the amendments that were made on both the Immigration and Refugees, the DHA failed to establish a monitoring and evaluation system to monitor all immigrants in the country. When other immigrants are informed about this shortcoming they try their luck by entering South Africa without proper documents.

The current policy debate emanating from the White Paper on International Migration (2017) is about overhauling the Immigration Act (2002) and Refugees Act (1998). The reason for the proposed amendments is to close the perceived implementation gaps and challenges. One of the gaps identified relates to the permission given to illegal asylum seekers in the country to apply for asylum. Another gap is the refinement and simplification of the process of finalising deportation.

Using a case study, the next chapter explores the challenges of implementing immigration policies in South Africa post 1994. The case study reflects the views on immigrants and other interest groups in the implementation of immigration policies. It focusses on the historical background of migration, operational inefficiencies at DHA offices and the administrative challenges that hamper implementation.



## **Chapter 4: Case Perspective of challenges of immigration policies in South Africa post 1994**

### **4.1 Introduction**

The previous chapter was dedicated to the discussion of the legislative framework in the implementation of immigration policies within the DHA. The contextual background of the process of policy development from the Green to White Paper and until it is signed by the president of the country as a statute was also discussed. The importance of constitutional obligation and international treaties were highlighted as important guide in policy development and implementation.

This chapter discusses the case study to test the 7-C Protocol variables on challenges of implementing immigration policies at the DHA. The rationale for using a case study in this research is to collate and present the views of immigrants and bodies affected by the implementation. According to Neuman (2011:42), “a case study research presents and in-depth examination of an extensive amount of information about very few units or cases for one period or across multiple periods of time”. The case can be individuals, groups, organisations, movements, or geographic units. Case studies have a detailed focus but tell a larger story. The role and views of NGOs, Courts and immigrants is represented in the case study.

In April 1994, South Africa celebrated freedom and democracy while the world watched expectantly as millions of voters cast their votes including the majority of black people who were disfranchised in the previous era. The occasion marked the new non-racial democratic era in South Africa and it was a relatively smooth and peaceful process (SIHMA, 2014).

Against this backdrop, the transition to a democratic state presented South Africa as an attractive country for many migrants. The movement of people into the country started to create challenges for policy makers on how to ensure that policies that are developed achieve intended objectives.

This case study offers some highlights on key challenges on immigration policy issues in South Africa.

## 4.2 Migrant mobility in contemporary South Africa

Trends in migration includes the movement of migrants that are undocumented, labourers, refugees, unskilled and those with low skills, minors coming to the country alone, business people, students, tourists and highly skilled migrants (SIHMA, 2014:7). The movement is mostly experienced within SADC countries, however, migrants from across the world see South Africa as the country of destination.

Since 1994, the annually approved entries of foreigners into South Africa have steadily increased. The majority came with visas that allowed them to stay for a short period of time. According to Statistics South Africa (2019:4), a total of 3 323 714 million travellers passed through the ports of entry in and out of South Africa in July 2019. These travelers were made up of 958 108 South Africans and 2 365 606 foreign travelers. As provided in Chapter 1, some of the immigrants decides to stay in the country in contravention of the Immigration Act (2002).

Although it is difficult to quantify the number of undocumented or irregular migrants in the country because there is no existing reliable data on irregular migrants by any state department including DHA, their number is expected to be high due to reasons provided in Table 2 of this research (SIHMA, 2014:8).

The recognisable number of migrants that dramatically increased, was that of asylum seekers and refugees. This category never existed before until the Refugees Act (1998) was promulgated. “The Department of Home Affairs data from 2001-2009 showed a substantial increase in the number of asylum seekers in this period rising from 4 860 in 2001 to 364, 638 in 2009” (Segatti & Landau, 2011:159).

Most of the migrants who came to the country as asylum seekers and refugees were from Zimbabwe. This was due to deterioration of economic conditions between 2008-2009 in Zimbabwe. New asylum claims around 2008 increased exponentially from 64 373 in 2008 to 22 300 in 2009 and Zimbabweans were found to be more than half of the 222 300 (UNHCR, 2013,26).

Since 2008-2009, many Zimbabweans started to cross the border illegally to settle in South Africa. Realising the problem, South Africa embarked on different dispensation regimes to regularise their stay in the country as discussed in Chapter 3. The following dispensation programmes were conducted: amnesty to illegal SADC contract mine workers in 1996, dispensation of Zimbabwean nationals in 2008, and the dispensation of Lesotho nationals in 2016.

South Africa is a host of refugees and asylum seekers from African countries that are further away than Zimbabwe. In 2013, the number of asylum seekers from East Africa was nearly 12 000 with over 9 000 from Ethiopia and Somalia alone (DHA-Asylum Statistics Report, 2013: 3).

#### **4.3 Stakeholders in the implementation of immigration policies**

The DHA is mandated with the implementation of immigration services, and the implementation of immigration services is executed in conjunction with other stakeholders as highlighted in the DHA Strategic Plan 2015-2020. The coordination between the DHA and other stakeholders is described as ‘weak’ by Scalabrini NGO (SIHMA, 2014: 18). Although the focus of this research is only on the DHA’s Immigration Services, the following stakeholders also play an important role in the implementation of the immigration policies. They did not participate in this research, however, their roles are explained below:

**Table 3: Stakeholders in the implementation of immigration policies**

<b>Stakeholder</b>	<b>Roles / responsibility</b>
Department of Labour: Work Visa	<ul style="list-style-type: none"> <li>• Provides a certificate confirming that no South African with the required skills is available to fill the position.</li> <li>• Conducts inspection at places of work to ensure compliance to the Immigration Act (2002) by employers.</li> <li>• Provide DHA with critical skills that South Africa need from other countries.</li> </ul>

Department of Basic and Higher Education: Study Visa	<ul style="list-style-type: none"> <li>• Provides proof of registration of foreign learners and students to the DHA.</li> <li>• Provides notification of de-registration or failure to register by foreign learners and students to DHA.</li> <li>• Provides proof of completion of studies by all foreign students to the DHA.</li> </ul>
DIRCO: Diplomatic Visa	<ul style="list-style-type: none"> <li>• Coordinates and informs the DHA about the travelling arrangements of all foreign dignitaries and diplomats into the country.</li> <li>• Assisting the Asylum and Refugees Management Directorate with investigating the country of origin of asylum seekers.</li> </ul>
Department of Correctional Services (Detention)	<ul style="list-style-type: none"> <li>• Detains all foreigners arrested for contravening the Immigration Act (2002).</li> </ul>
Department of Cooperative Governance and Traditional Affairs	<ul style="list-style-type: none"> <li>• Assists foreigners with human settlement in the country and update the DHA about their welfare through traditional leaders and councilors.</li> </ul>
Lawyers for Human Rights	<ul style="list-style-type: none"> <li>• A non-government, non-profit organisation whose vision is to provide legal support that leads to effective human rights for all citizens and foreigners. It is a constitutional watchdog and advocacy group for socioeconomic rights for the disadvantaged.</li> </ul>
Department of Social Development	<ul style="list-style-type: none"> <li>• Placement of unaccompanied migrants' minors at a place of safety.</li> <li>• Provide social relief for those migrants who are vulnerable and are in need.</li> </ul>

#### **4.4 Governance issues on implementation challenges**

Despite significant progress made in South Africa post 1994, the legal framework for implementing immigration remains a challenge. This is demonstrated in the violation of rights of migrants and the abuse of power by immigration officials at the DHA's Immigration Services when dealing with migrants issues (SIHMA, 2014:20).

This is also reflected in the DHA Annual Report (2017-2018:26), where the litigation bill on immigration against the DHA is stated to be R665.9 million. R499.1 million of the bill is as a result of illegal arrest of foreigners without following the correct procedure and the arrest of South African citizens who are mistaken as foreigners, and the 166.8 million is due to the delay in the issuance of visa and permit documents that led to applicants missing out on opportunities. The delays in issuing visa and permits are in contradiction with the purpose of the Immigration Act (2002). The Act states that “visas and permits shall be issued efficiently, expeditiously without delay to all immigrants who meet the standard requirements”.

The money that is set aside for litigations by the DHA affects policy implementation, because some of the programme cannot continue, such as recruiting more immigration staff and procuring more resources.

##### **4.4.1 Institutional challenges in managing immigration**

Challenges experienced by immigrants, especially asylum seekers when visiting DHA Refugees Reception offices is well documented. One of the main causes is that the DHA is under resourced, underfunded and under capacitated. It is a department with an uncharacteristic reputation as being the “employer of last resort” (Vigneswaran, 2008:795). Below is the statistical reflection of funded immigration positions at the DHA. As reflected in Figure 4.1 below, funded immigration positions in the financial year 2016-2017 were 1, 782 and the number slightly increased in the 2017-2018 financial year to 2, 087, as reflected figure 4.2.

**Figure 4.1 Funded positions at the DHA 31 March 2017****Source: DHA - Annual Report (2016-2017:124)**

Table 3.2.1: Employment and vacancies by programme as at 31 March 2017

Programme	Number of posts on approved establishment	Number of posts filled	Vacancy rate	Number of employees additional to the establishment
Programme 1: Administration	1 072	1 067	0.5	171
Programme 2: Citizen Affairs	6 470	6 451	0.3	140
Programme 3: Immigration Affairs	1 785	1 782	0.2	12
<b>Total</b>	<b>9 327</b>	<b>9 300</b>	<b>0.3</b>	<b>323</b>

**Figure 4.2 Funded position at the DHA 31 March 2018. Source: DHA Annual Report (2017-2018:134)**

Table 3.2.1 Employment and vacancies by programme as at 31 March 2018

Programme	Number of posts on approved establishment	Number of posts filled	Vacancy Rate	Number of employees additional to the establishment
Programme 1: Administration	1 140	1 050	7.89	3
Programme 2: Citizen Affairs	6 455	6 191	4.09	20
Programme 3: Immigration Affairs	2 189	2 087	4.66	1
<b>Total</b>	<b>9 784</b>	<b>9 328</b>	<b>4.66</b>	<b>24</b>

Due to global fiscal challenges since 2008, the National Treasury issued instruction to all government departments to reduce their Compensation of Employees and Goods and Services budget. The DHA had to reduce its budget on the Compensation of Employees as follows: 2017/18: R253 967 million, R28 226 million, 2018/19: R396 942 million and 2019/20: R39 365 million. On Goods and Services: 2017/18: R28 226 million, 2018/19: R30 559 million and 2019/20: R23 394 (DHA-APP, 2018/19: 28).

Owing to the above austerity measures, immigration employment positions were only increased to 2, 087 by the end of March 2018 from 1, 782, a miniscule increase of 305 when contrasting the number with the mammoth task of managing immigration in a country with such an influx of immigrants.

Incapacity, inexperience and lack of political will are some of the issues stated that led to an increased challenge in the management of immigration particularly for asylum seekers and

refugees. This included increased backlogs, poor decisions, lack of interpreters and delays in status determination (SIHMA, 2014:21). For many asylum seekers, accessing RROs can be difficult or impossible in the country, others are being denied entry into South Africa despite that the Refugees Act (1998) states that immigrants who enter the country for the purpose of applying for asylum must not be denied entry at any border or port of entry. A 2011 report by the Integrated Regional Information Networks refers to the a priori<sup>8</sup> rejection targeted on immigrants from Somalia and Ethiopia seeking asylum in South Africa by immigration officials (SIHMA, 2014:21).

Not allowing immigrants to seek asylum in South Africa is not only a violation of refugees law in the country, but international laws such as the Geneva Convention (1951), Protocol (1967) and OAU Convention (1969). Denying asylum seekers entry may also place them at the risk of refoulment. This kind of a priori group exclusion is a clear indication of lack of adequate knowledge and skills on the requirements of refugees laws (Amit, 2011; Polzer, 2013:21).

Access to Refugee Reception Offices by asylum seekers is also a great challenge. Research conducted by the African Centre for Migration and Society (ACMS) in 2011 and 2012 found that over 1 400 asylum applicants responded that receiving an asylum permit on first application is not possible and institutional challenges and lack of knowledge on refugee laws by officials make it even more difficult (Amit, 2012:10).

Translation services at most RROs is inadequate; and some difficulties and challenges exist in the renewal of asylum permits and the replacement of permits that are lost or stolen. Moreover, the penalising of asylum seekers by fining them for the expired or lost permit create risk of corruption at some of the RRO's which includes bribing officials with some money to access the office and to obtain services (Amit, 2012:11).

The DHA Service Charter<sup>9</sup> explains the turnaround times to finalise immigration documents as follows (DHA-Service Charter, 2015:15):

---

<sup>8</sup> A priori is the exclusion not based in law but on person's understanding and justification.

<sup>9</sup> A written legal declaration document that declares service standards, accessibility, non-discrimination, transparency and accountability by the DHA

- Temporary residence visa: 3 months
- Permanent residence visa: 8 months
- Asylum seeker application: 180 days including appeal

Despite the above stated turnaround times, to finalise the processing of asylum, visa and permit applications could take years, this is also reflected in the scathing letter that was sent to the President of the country by the Lawyers for Human Rights presented in Chapter 3 of this research. Inadequate institutional mechanisms including lack of strategy to deal with appeals effectively and efficiently are listed as some of the risk contributors in managing immigration (SIHMA, 2014:23).

Another example of inefficiencies at the DHA is reflected in the Supreme Court of Appeal ruling against the DHA on Case No: 1211/2017; DG Department of Home Affairs v De Saude Attorneys (1211/2017) [2019] ZASCA 46. The case was an appeal by the DHA against the Court Order handed down by the Western Cape Division of the Cape High Court regarding the failure by the DHA to finalise 473 visa and permit applications. The Court ruled in favour of respondents, De Saudi Attorneys. The Court found that the applications were already over the prescribed turnaround times. Some of the applicants even tried to lodge appeals against the delay by the DHA without any luck.

The Judges from the Supreme Court of Appeal were not convinced by reasons presented by the DHA of why it has failed to implement the High Court Order to finalised those 473 applications. On its ruling, the Supreme Court of Appeal found the following to be the major challenges at the DHA's Immigration Services: inefficiencies, officials who are under-skilled, uncaring and who abuse administrative powers entrusted to them (ZASCA 46: 9). The DG and the Minister of the DHA as appellants were further instructed to address the mentioned inefficiency challenges soon.

Failure to process and finalise applications according to turnaround times has dire consequences to the applicants. Banks freeze their accounts, employers rejects them, some are arbitrarily arrested and deported due to inefficiencies by the DHA offices.



There are similar court cases where the courts ruled against the DHA such as the *Eisenberg & Associates & others v Director-General, Department of Home Affairs & Others* 2012(2) SA 508 (WCC). The case was about the failure of the DHA to determine and finalise 105 visa and permit applications. The High Court Judge described the manner in which the DHA dealt with the applications as simply ‘administrative bungling’ because no sound reasons were forwarded for the failure to finalise the applications.

Another example of inefficiencies at the DHA is found in the Public Protector report about the plight of Van Hillegondsberg family. The family struggled for 16 years to obtain legal documents from the DHA. Members of the family were given fines and arrested for breaching immigration laws at the instigation of the DHA.

The Van Hillegondsberg family applied for work, business and study visas which have been delayed or ignored continuously by the DHA. The family reported the matter to the Public Protector and she made the following findings (Madonsela, 2012: 73):

- The DHA was found to have committed maladministration by its failure to process the application of the family since 2003.
- The DHA was also found to be in breach of the spirit of Section 33 of the Constitution (1996) and the Promotion of Administrative Justice Act (2000) for not giving the family written reasons on their failure to take a decision.
- The Public Protector also made findings that there was an abuse of power by the DHA for using criminal proceedings against the family when they failed to make a determination of their applications since 2003.

The above cases reflect lack of institutional readiness in the implementation of immigration policies. The huge litigation bills and the Supreme Court of Appeal ruling against the DHA demonstrate inefficiencies within the DHA’s Immigration Services. The Public Protector’s findings also paint a gloomy picture about administration within the DHA. This shows lack of institutional readiness, capacity, lack of proper coordination with coalition partners, lack of commitment in the implementation process. The next section specifically looks at the role law enforcement.

#### **4.4.2 The role of law enforcement on irregular migrants**

The DHA has a staff complement of 731 Inspectorate Officials responsible for combating illegal migration in collaboration with other security and border management stakeholders within South Africa (DHA- Annual Report, 2017-2018: 95).

One of the key performance areas of inspectorate officials is to arrest and detain illegal and undocumented migrants for the purpose of deportation. Once illegal immigrants are arrested they are detained at the Lindela Detention Centre in Krugersdorp (SIHMA, 2014:23). The detention and deportation regime is a costly exercise for the DHA. Most migrants who are deported to their countries, find their way back into South Africa through porous borders. This is a proof that deportation is not effective. Inspectorate officials also often violate the rights of migrants by effecting illegal arrest on migrants that they are not supposed to arrest including asylum seekers (DHA-Annual report, 2017-2018:95).

Data shows that between 1994 and 2008 about 2.8 million illegal migrants were deported. Many illegal migrants were from Zimbabwe, no statistics of how many managed to come back through porous borders (Segatti & Landau, 2011:158). After the implementation of the moratorium on deportation due to the Dispensation for Zimbabwean regime in 2008, there was a drop in the deportation of illegal immigrants from Zimbabwe (Budlender, 2013:34). In the financial year 2017- 2018, only 15, 033 illegal immigrants were deported (DHA-Annual Report, 2017-2018: 96). The risk management plan of the DHA lists the following as high risk on immigration management (DHA –APP (2018-2019:99):

- Failure by the DHA to trace illegal and undocumented immigrants;
- Insufficient control measures at the borderlines; and
- Insufficient human and operating capital for the inspectorate.

The Immigration Act (2002) and Refugees Act (1998) were meant to serve different purposes. The Immigration Act (2002) meant to regulate the admission, stay and departure of all immigrants in the country and the Refugees Act (1998) was meant to regulate and give protection to refugees. However, in practice those immigrants that are supposed to be protected in terms of the Refugees Act (1998) are exposed to the realities of Immigration Act (2002) and they are subjected to detention and deportation and leaving them at risk of refoulment (Amit,

2012: 8). In terms of various international instruments and the Refugees Act (1998), asylum seekers and refugees must not be detained, but inspectorate officials often ignore this differentiation (Amit, 2012: 8). Between 2009 and 2010, about 90 legal cases were brought by Lawyers for Human Rights against the DHA regarding the violation of the Refugees Act (1998). This included the arrest of asylum seekers and refugees and denying them protection (Amit, 2012: 9).

#### **4.5 Chapter conclusion**

South Africa, like many other countries, is attractive to migrants seen as an ideal destination by tourist and those seeking a better life. Democracy in 1994 brought many changes, including changes that were effected in laws such as immigration and refugee laws. The management of immigration has proven to be facing challenges due to inefficiencies and lack of capacity.

The ruling against the DHA by the Supreme Court of Appeal Judges and other various courts on the failure to finalise visa and permit applications within the prescribed turnaround times, the findings against the DHA by the Public Protector's office, the scathing letter to the President of the country by the Lawyers for Human Rights, the findings of the research conducted by the ACMS about the treatment of asylum seekers, all these are a clear indication of policy implementation gaps.

These gaps will be further explored through the 7-C Protocol instrument to gain insights and to make recommendations of how to improve implementation. This Chapter has also noted that some of the challenges in the implementation are beyond the control of the DHA, such as the instruction that was issued by the National Treasury to all government departments to reduce their budgets on the Compensation of Employees and Goods and Services. This had a direct effect on the proper functioning of Immigration Services and it affected their recruitment plan and resources.

Lack of proper understanding of the Constitution (1996), immigration laws and the provisions of international conventions also impacts negatively on Immigration Services. The country need proper functioning Immigration Services due to the benefits such as foreign direct investment, critical skills and the revenue generated from tourism industries.

The root causes of inefficiencies must be addressed by all the actors in the implementation process including political executives and coalition partners. The violation of rights of immigrants through illegal arrests, fines and deportation especially those seeking asylum is not

conforming to the spirit of the Constitution (1996) and it violates statutory and international laws.

Chapter 4 described challenges in the implementation of immigration policies. It highlighted challenges experienced during implementation and inconsistencies in the implementation. The researcher will use the 7-C Protocol to determine the extent of challenges and efficiencies among those entrusted to implement the policies.

The next chapter discusses the research methodology used.

## **Chapter 5: Research Methodology**

### **5.1 Introduction**

Chapter 4 provided a case study on challenges experienced in the implementation of immigration policies. What emerged from the case study is the inefficiencies from Immigration Services caused by lack of urgency in attending to immigration issues such as visa, permits and asylum applications. Moreover, the abuse of human rights reported seems to be the established culture.

Building on this understanding a specific research design and methodology must be adopted in order to analyse to reach conclusion and propose recommendations for the research. This chapter therefore seeks to describe the research design and methodology relevant to the research study which will assist in the presentation of the findings and analysis. This chapter further describes population selected, the data collection instrument, the sampling method, the data analysis and ethical considerations.

The research aimed to assess the implementation of immigration policies at the DHA's Immigration Services by applying the clusters of 7-C Protocol. The methodology aimed to answer the research question and the core objectives that were explained in Chapter 1. Answers to the question will be dealt with in Chapter 6 and 7.

### **5.2 Research Design**

A research design “is a blue print for conducting a study, with maximum control over factors that may interfere with the validity of the findings” (Burns & Grove, 2003:195).

The researcher sought to assess the implementation of immigration policies by applying the 7-C Protocol to the DHA's Immigration Services. To answer the research questions and meet the objectives of the research, a relevant design must be adopted.

As explained in Chapter 1, the researcher constructed the study around empirical and non-empirical research methods. The empirical research method is grounded in primary research consisting of collected raw data, and the non-empirical method is grounded in secondary

research which consists of a literature review and document analysis. These methods made the researcher to understand the unit of analysis in the research scope.

The non-empirical textual data which were used and analysed, were extracted from relevant literature, immigration policies documents; a case study; strategic documents included in the DHA Strategic Plan; the Immigration Act (2002) and Refugees Acts (1998); the Constitution (1996), and various international treaties.

The primary empirical data was gathered through the research questionnaire (Annexure B), and interviews schedule (Annexure C) answered by the selected population sample. The participants who were selected were presumed to be relevant to the research because of their insight and knowledge in the field of immigration. This allowed the researcher to reach informed conclusions and to make recommendations for the study.

The research design might be affected by challenges that are beyond the researchers' control, such as the time the respondents will take to answer questions, availability of respondents and that some respondents might not continue with the research process as previously arranged and agreed.

### **5.3 Research Methodology**

After adopting a certain research design methodology, the researcher must thereafter explain how the design will be implemented (Burger, 2015:49)

For the researcher to implement a research design, it is critical to explain the instruments to be used. In implementing a research design, certain techniques will be followed. One of the techniques included conducting textual analysis of immigration policies. The researcher used this technique to assess and understand the policies' responsiveness or lack thereof to its implementation.

The critical analysis of the policy is important to highlight its fundamental intentions and objectives. This means sometimes that the non-implementation of a given policy cannot always be blamed on those responsible for the implementation as highlighted in Chapter 4 on the reduction of the budget for Compensation of Employees and Goods and Services. The Immigration Services was affected the most and they could not even increase their staff complement and procure extra resources.

The DHA's Strategic plan 2015-2020, Annual Performance Plans, Annual reports have also been analysed to produce data pertinent to immigration policy implementation.

Three research approaches can be applied in social science research: Quantitative, qualitative and mixed methods. These three approaches will allow for the differences that can be applied in each research paradigm combined with the aim of the research, focus of and mode of enquiry (Welman et al. 2009: 06)

According to De Vos (2002:272), the criteria for selecting a case study method is an opportunity to draw from lessons learnt. Since case studies are both exploratory and descriptive, they make use of in-depth qualitative data collection methods such as interviews, documents and archival records.

The researcher adopted both a qualitative and quantitative approach in order to gain insight into the implementation of immigration policies. A qualitative research approach can pose a challenge by leading to too much information, difficulty to interpret, but can be valuable in assisting the researcher in reaching conclusions. However, the qualitative approach assisted the researcher in organising the collected data into comprehensive themes, and the quantitative approach allowed the researcher to represent the data statistically.

A research questionnaire was delivered physically and electronically to the selected participants, who were at the coalface of immigration policy implementation. The participants were requested to complete the questionnaire over a four-day period. This was done to allow the best possible responses to all the questions. Interviews were conducted with managers. The questions developed were aligned to the 7-C Protocol, which was the instrument used to assess the implementation of immigration policies.

## **5.4 Study Population**

The study population, from which the sample is selected, refers to the inclusion of all elements that are relevant and meet the criteria of the research (Burns and Grove, 2003:40). The research was conducted at the DHA's Immigration Service in Pretoria, and the participants were officials from the Immigration Services. The focus of the study was mainly at the Immigration Services and data required from immigrants were addressed through the case study in Chapter 4 and will be analysed in Chapter 6.

The researcher wishes to formulate a specific conclusion by encompassing the collection of all the units of analysis of the research problem to a specific population (Welman et al. 2009:25).

#### **5.4.1 Sampling**

The researcher should have research participants that represents the population under research so results can be generalised. For the results to have meaning beyond the original setting that they were obtained from, they must be generalised from sample to a population (Welman et al. 2009:55).

Non-probability sampling was used. This method is known as an efficient and less complicated sampling method. Purposive sampling technique was selected. The reason purposive sampling was selected relate to the accuracy it provides in reaching conclusions. The researcher adopted purposive sampling because immigration is a specialised field which requires specialised skills, insight and knowledge.

Purposive sampling is based on what the researcher has decided needs to be known and set out in the search for respondents who have insight and can provide accurate and relevant information based on their knowledge and experience in the selected section of the case study. As stated, employees within the Immigration Services branch of the DHA (Pretoria) were selected, except for two participants from the Policy Development Directorate. The latter participants had an in-depth understanding of the Standard Operating Procedures, the DHA policies, circulars, directives, departmental documents and legislation pertaining to immigration. The roles of managers within the Immigration Services includes interacting with external stakeholders in the implementation of immigration policies and those roles will be analysed in Chapter 6.



Table 4 below explains the scope of the sample.

**Table 4: Sample size**

<b>Respondents</b>	<b>Division</b>	<b>Number</b>
Immigration officers	Inspectorate=4, Permitting=2 and Refugee Reception Office=4	10
Managers	Inspectorate=2, Refugees Immigration Administration=3 and Policy development=1	06
Senior Managers	Immigration=1 Policy development=1	02

## 5.5 Limitation of the Study

The study was confined to the DHA's Immigration Services in Pretoria and focused on immigration policy implementation. However, for context purposes, a brief background on challenges on immigration policies was provided in Chapter 4 through the case study. Participants from OR Tambo International Airport's Port Control directorate did not participate as envisaged because the area became inaccessible for operational reasons when the research was conducted. However, that did not affect the objectives of the research as the questions accommodated the area of Port Control, and some participants in this research used to work at OR Tambo International Airport before moving to other areas within Immigration Services such as Permits, and Refugee Reception Offices. Interviews were restricted to managers owing to their busy schedule. With the said limitations regarding OR Tambo International Airport, the researcher managed to involve 18 instead of 23 participants.

## 5.6 Data Collection

Data can be physically collected from research participants by the researcher or by other collection methods, such as online through email and document analysis. Once gathered, the data need to be transformed into valuable information by the researcher by means of specific

tools that need precise explanation as they assist in formulating conclusion and suggesting recommendations.

The analysis of the literature review, immigration legislation, the DHA's Strategic Plan (2015-2020), the DHA-APP documents, the case study and the Constitution (1996) yielded important primary textual data regarding the implementation of immigration policies. The analysis of data collected from these documents was subjected by the 7-C Protocol and they provided insightful information that assisted the researcher in making informed conclusions and recommendations to the study.

A research questionnaire was used to collect data from participants. Interviews were held only with managers owing to their busy schedule in completing the questionnaire. The researcher had to postpone pre-arranged interview appointments a number of times before finally conducting it.

Kumar (2014:176) defines an interview "as a person-to-person interaction, either face-to-face or otherwise, between two or more individuals with a specific purpose in mind".

## **5.7 Data Analysis**

Data analysis assist in the identification of themes and patterns of the collected data and reduce data to manageable proportions. For the purpose of transforming data into valuable information in this research, Cloete's et al. (2018) 7-C Protocol instrument was used to analyse data in order to understand complexities associated with policy implementation

The completed questionnaires and interviews that were conducted were processed and analysed, using comprehensive themes to categorise information and to present data statistically.

## **5.8 Reason for selecting the 7-C Protocol as an instrument for assessment**

Chapter 2 of this research provided the theoretical background of public policy implementation including the 7-C Protocol. Implementation challenges and complexities are raised and discussed as well as instruments that can be used for better implementation. The 7-C Protocol instrument provides clarity to the complex nature of policy implementation both as an administrative and political process. Chapter 2 of this study showed that various scholars

recognise these variables in the field of policy implementation. Moreover, these scholars acknowledge that the variables are not static but rather interlinked and interconnected.

The researcher decided to choose this instrument for various reasons. Firstly, the 7-C Protocol includes the critical variables espoused by many policy scholars in the field of implementation; secondly, the 7-C Protocol variables exposes challenges in the nature and process of policy implementation; and thirdly, the fact that the variables are interconnected and interlinked provides a useful tool to avoid the difficulties that might be brought about by choosing a more simplistic approach for interpreting data, which might lead to unreliable data, conclusions and recommendations. The analysis is provided in Chapter 6 of this research.

## **5.9 Ethical Considerations**

The researcher adhered to the ethical principles of Stellenbosch University by firstly, obtaining ethical clearance from Stellenbosch University, secondly, attaining permission to conduct the research at the DHA and, thirdly, by attaining consent from all participants (Annexure A). Prior to data collection, participants were given consent letters and they were informed that that it was not compulsory for them to participate in the research and they can withdraw anytime when they no longer want to continue. The data collected and the final research report will only be used for the purpose of completing the qualification, and one copy will be provided to the DHA, a proviso indicated in the signed permission letter. The confidentiality of the information will be safe guarded and the anonymity of all participants will be protected by the researcher.

## **5.10 Chapter conclusion**

Chapter 5 provided the research methodology and design, and clarified the research process. The researcher selected the most suitable participants by adopting a purposive sampling technique in order to gain relevant insights. The questionnaire was completed in time by the majority of respondents, but the researcher struggled to secure appointments for interviews with managers who were otherwise committed in their respective work areas.

Some participants did not complete all the questions; however, that did not compromise the objectives of the research because the majority of participants did answer the questionnaire in

its entirety. This chapter also assessed data collection; the study population; sampling and sampling techniques; data interpretation; data analysis, data instrument and ethical considerations that the research had to adhere to in line with the ethical principles as set out by Stellenbosch University.

The next chapter, analysis the findings of data collected. Chapter 6 will provide insights into the challenges and complexities of immigration policy implementation at DHA's Immigration Services in Pretoria.

## **Chapter 6: Research Findings and Analysis**

### **6.1 Introduction**

The aim of Chapter 6 is to link the collected empirical data with available theory and highlight the complexities inherent in the implementation of immigration policies. The fieldwork results were divided among feedback from immigration officers, managers and managers in the case study.

The clusters of the 7-C Protocol variables that affect the implementation of public policy are implied in the objectives of immigration policies and the complexities of implementation. For example, a lack of resources such as material, financial and human is an implied variable affecting implementation capacity within the case study. The variable content, could also be affected by lack of capacity because if the purpose of the Immigration Act (2002), DHA Strategic Plans, Standard Operating Procedures, in that if circulars and directives are not clear, implementation will suffer.

Lack of compliance to the immigration regulatory framework is also implied in the complexities and challenges in the implementation of immigration policies. Non-compliance to the content of the regulatory framework will lead to a negative impact on both the commitment of implementers and clients/coalitions that supports the policy. Moreover, if policy implementation is not communicated and coordinated effectively, implementation officials will not commit themselves and it will negatively affect the policy outcomes and those who have an interest in the policy such as immigrants and various NGOs as highlighted in Chapter 4.

In this chapter, attention is given to the weaknesses of policies and the significance of administrative capacity during the implementation of immigration policies. More specifically, this chapter aims to address the main aim of the research in the application of the 7-C Protocol to assess the implementation of immigration policies in the DHA case study.

The findings of the study will respond to the following research question:

*“Are immigration policies implemented as planned? What are the factors that affect policy outputs and their impact?”*

The chapter will present the following:

- Fieldwork results on the application of 7-C Protocol instrument based on the selected participants.
- The analysis of fieldwork results on the status of immigration policy implementation in order to inform conclusions and recommendations.

The research questionnaire was designed for participants to present answers according to their roles and functions in the implementation process. Immigration officials were expected to give feedback according to their day-to-day implementation of immigration policies. Managers and managers were expected to answer according to how they give support, including resources, to immigration officials and strategic direction during the implementing process.

Comprehensive themes were identified from the respondents’ answers to the research questions, which formed the basis for analysis together with statistical representation. These included responses on the practical implementation of immigration policies in relation to the 7-C Protocol.

## **6.2 The 7-C Protocol**

The responses to the questions based on the 7-C Protocol variables were as follows:

### **6.2.1 The Content of policy in implementation (Protocol No. 1)**

On the ‘content’ variable, the researcher wanted to establish whether the layout, the objectives, vision and mission of the organisation and strategies required to execute immigration policies have been factored in before policy implementation.

The content of policy “refers to the process of interaction between the setting of policy goals and the action geared towards achieving these” (Cloete et al., 2018:207).

## Immigration officials

The first question was aimed at extracting data on the purpose and objectives of immigration policies.

50% of the respondents said that the purpose of immigration is to guide the DHA on how to address immigration processes in the Republic and to issue enabling immigration documents to all deserving immigrants. 50% of the respondents stated it is to ensure the protection of all people in the Republic by ensuring that all non-citizens are documented before admitted into the country. Moreover, it denies entry to those who are undesirable or prohibited. In other words, the responses were based on how immigration policies ensure the security and protection of all people in the country.

Below is direct quote from one respondent regarding guide processes:

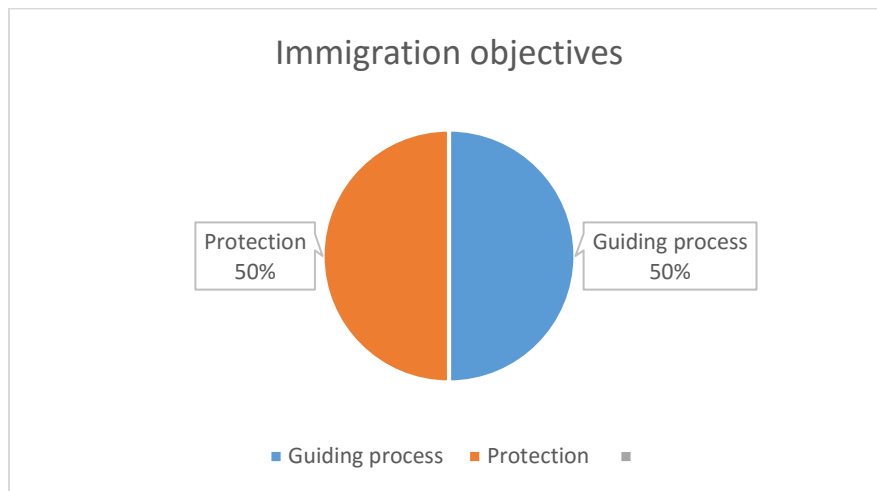
*“They guide the Department of Home Affairs on how to manage immigration processes in the Republic by allowing entry to those who meet the requirements and prohibit those who don’t meet the requirements. Moreover, it encourages foreigners with critical skills and business investors to come and invest in the country for the country to meet its social development goals.”*

In reference to protection, a respondent stated that the purpose of immigration policy is as follows:

*“To ensure effective protection for all refugees, asylum seekers and other persons residing in the country and to align all policies to international bodies.”*

Figure 6.1 below illustrates the participants' responses to the first question:

**Figure 6.1: Immigration objectives**



The second question posed was aimed at extracting data on challenges experienced in achieving the objectives of immigration policies.

80% of the respondents stated that resource constraints are the main reason why immigration policies are not fully achieved. 20% said negative interference by management, especially senior managers and politicians, in policy implementation prevents effective implementation. An example of this would be managers instructing officials to act in contravention of the immigration legislation by instructing them to perform illegal processes by allowing immigrants who do not qualify to be admitted. Some respondents indicated a lack of adequate skills as hampering effective implementation.

The third question was aimed at extracting data on whether directives, circulars and SOPs are helpful in assisting the participants during immigration policy implementation. 80% said they were happy about the clarity provided by SOPs and circulars, but 20% said, they are circulated late, and the content sometimes is not clear.



One respondent stated the following with regard to the Permits Directorate:

*“No. Circulars and SOPs are not helpful because they take too long to be circulated and once they are issued they create even more confusion because nobody gives clarity that is commonly understood by all.”*

The fourth question was aimed at extracting data on the role of DHA’s Immigration Services in the implementation International Conventions on refugees.

75% of the respondents stated that the aim of various international conventions is to open South Africa for all immigrants to enter the country and to compete with South African citizens on the available limited resources. This is reflected by a huge number of asylum seekers who are not meeting the requirements to be granted asylum. 25% of the respondents stated that the purpose of international conventions is to ensure that all members states do not violate conditions of implementing refugees processes when addressing issues of immigrants who fled their country out of fear of persecution.

One of the respondents stated that:

*“Out of about 67 000 application received for asylum, only 2500 qualified and the rest were rejected, a clear indication that majority abuse the asylum regime”*

### **Middle and senior managers**

With regard to immigration objectives, all the respondents who were middle or senior managers said the purpose of immigration policies is to control the movement of people into the country; to manage their exit; to thoroughly regulate visas and permits; and to manage and assist South African citizens who reside in other countries

One of the respondents made the following observation:

*“The objectives of the immigration policy are to afford the country power to regulate movement of people into the country and their departure thereof and to further assist South African in other foreign States.”*

Regarding the second question about challenges for effective implementation, 43% of the respondents stated that a lack of political will prevents effective implementation of a policy. 57% said some managers (their colleagues) lack adequate knowledge of immigration laws and understanding of the strategic direction of the DHA.

Participants indicated that the effectiveness of immigration implementation is hindered by the contradiction between immigration and refugees' legislation. Where the Immigrations Act (2002) prescribed that all immigrants in the country must be properly documented before being allowed into the country, the Refugees Act (1998) accommodates even those migrants who came to the country illegally.

Corruption was also cited as affecting effective policy implementation. The following remark was made by a respondent:

*“Root out corruption, inculcate patriotism first with citizens, second with politicians. Management must manage and ensure compliance. Reduce the powers of the NGOs in interfering with immigration issues. Re-Introduce immigration courts.”*

The third question addressed the helpfulness of immigration directives, SOPs and circulars in the implementation of immigration. All the respondents stated that SOPs and circulars play an important role in ensuring that the simplification of immigration policy leads to better understanding by all implementers. However, they admitted that, owing to the signatures that have to be appended on the documents, some circulars and SOPs are delayed. Moreover, they are not issued on time because those responsible for those signatures are often out of office.

On the fourth question, all respondents stated that the role of the DHA management is to align the provisions of International Conventions with the Refugees Act (1998) in order to remove inconsistencies in the implementation and to protect immigrants that are in danger of being persecuted in their own countries.

Data extracted shows that although immigration officers understand the ‘content’ in terms of the objectives and purpose of the immigration policies, they get confused when given illegal instruction by their managers and to them the policy becomes ambiguous.

### 6.2.2 The institutional context in policy implementation (Protocol No. 2)

On ‘context’ variable the researcher intended to answer the question whether the DHA’s Immigration Services has considered social, economic, legal and political issues when developing and implementing immigration policies.

#### Immigration officials

The first question directed to respondents was aimed at extracting data on the alignment of immigration policies to social, economic and political factors of the country in policy implementation. It sought to determine how these policies were aligned to the NDP and the DHA’s Strategic Plan 2015-2020, how prepared Immigration Services was in implementing immigration policies.

62.5% of the respondents claimed that poor economic development in other countries, especially SADC countries like Zimbabwe, leads to migration to South Africa as economic migrants but under the pretext of seeking asylum. These migrants are actually searching for work, even though they do not have the required critical skills the country needs for its economic development, as highlighted in the critical skills list in the Government Gazette No 37716 Vol 588 and the NDP Vision 2030.

37.5% of the respondents stated that it is because some employers in South Africa employ illegal immigrants which becomes a pull factor for them. Respondents also noted that migrants often experience civil wars and political instability in their countries, and they are left with no choice but to emigrate. In this regard, a particular respondent stated the following:

*“The issue of economic migrants plays a critical role in the implementation of both the Immigration Act and Refugees legislation as the majority of asylum seekers are pushed by their country’s economic and unstable political situation to move to South Africa for greener pastures while creating a burden to the host country’s economy as all resources that were meant for South African citizens in terms of social resources and welfare must now be shared with foreign citizens. They come to the country not for protection, but for economic reasons and some employers employ illegal immigrants so that they can exploit their labour.”*

The second question was about the influence of organisational structure and DHA values on immigration in the implementation of immigration policies.

57% of the respondents stated that all immigration officers are expected to understand and embody the values and principles of the Constitution (1996) because they are important in the implementation of immigration policies, but sometimes support from management is lacking. A respondent stated the following with regard to expectations from management:

*“Some migrants are at risk of being persecuted (refoulment) in their home countries and the country must protect them, also the country must understand the power dynamics within the organisation and put immigrants at the centre of their work and managers must ensure that immigration officers understand what is expected of them and the organisational values that they must live when executing their duties.”*

43% of the respondents stated that organisational structure plays an important role in influencing immigration policy implementation, and the organisation values assist in inculcating the culture of service to ensure that all immigration officers are patriotic and security conscious.

### **Middle and senior managers**

67% of respondents stated that South Africa has no camps to house refugees and that is one of the pull factors for migrants to migrate. In this regard, a respondent stated the following:

*“South African government does not have an encampment policy to establish refugee camps, therefore the Section 22 Permit that is issued to asylum seekers allows them to be integrated into the society, look for work and study while in the country and that makes South Africa more attractive to them.”*

33% of the respondents stated that infrastructure in Africa is underdeveloped, hence many immigrants see South Africa as their last hope to improve their lives and socio economic conditions because of its well-developed infrastructure.

The huge backlog for asylum applications and inefficiencies at various RRO's as provided in the case study of this research in Chapter 4, highlights that Immigration Services was not ready to deal with the influx of asylum seekers to the country. Also the various court rulings against the DHA reflects institutional challenges in implementing immigration policies.

### **6.2.3 Commitment to implement policy (Protocol No.3)**

On the 'commitment' variable, the researcher wanted to establish the degree of commitment in the implementation of immigration policies by policy implementers including political executives, managers within the Immigration Services and Immigration Officers.

#### **Immigration officials**

The first question was aimed at extracting data on the commitment by political executives and managers to Immigration Officer in the implementation of immigration policies.

70% of the respondents stated that there is no political will to support immigration implementation because officials have been requesting and complaining about resources, but nothing has been done to resolve these problems. Officials are still expected to work under difficult conditions without resources, such as budget, staff, chairs and vehicles.

30% of the respondents stated that politicians are supportive and, in fact, without them the implementation of policies would not be possible. Politicians allocates those resources under the current difficult global financial conditions. They allocate resources where possible, and give political support, clarity and direction towards effective policy implementation. This point is emphasised by one of the respondents:

*“Political executives play a major role as they are the drivers of the policies and regulations. They also give direction towards the implementation of legislation. Furthermore, they provide proper intervention where policies need to be amended.”*

The second question was aimed at extracting data on the support and commitment officials get from their immediate supervisors and managers in the implementation of immigration policies.

40% of the respondents stated that their managers are not supportive because they think immigration officials are corrupt and incapable of managing resources allocated to them. Some are only supportive when major projects are implemented like document dispensation projects, which draw public comment and exposure. These officials further said that sometimes managers do give them direct instruction to fast track visa or permit applications of certain individuals including their relatives, friends and political acquaintances, a clear indication that they lack commitment to the provisions of immigration policies and procedural fairness.

The support from managers is mostly on document dispensation projects and is reflected in the following comment made by one of the respondents:

*“They are committed only to dispensation projects like the Zimbabwean and Lesotho document projects, otherwise there is no strategic support to their subordinates. We battle with backlogs and inquiries year in and year out without much help from management.”*

Another respondent echoed the above remark:

*“No support because the procedure in applying the Immigration Act is not implemented fairly and equally to all foreigners, some foreigners get their permits and visas without meeting all the requirements at the shortest possible turnaround time”*

However, 60% of the respondents stated that their managers show commitment to support them with all resources and tools they need, despite organisational challenges like where resources are in short supply. For example, they do organise immigration training workshops so that officials are capacitated with all information and knowledge regarding the latest developments in the immigration field.

The third question was aimed at extracting data from respondents on what can be done to commitment?

All responded stated that the provisioning of required resources, enough support and continuous training will assist them in ensuring that immigration policies are implemented effectively.

### **Middle and senior managers**

38% of the respondents explained that there exists a lack of political support because legislation like the Refugees Act (1998) is now very old, 20 years to be exact, and some provisions are outdated; but, it is still the principal Act. A respondent said some politicians are foreigners themselves who obtained South African citizenship fraudulently through political connections, and their aim is to help their compatriots to access South African citizenship status by all means possible. This is how they commented:

*“Political executives are not supportive and one can conclude that they are corrupt themselves as it is understood that some of them are immigrants, who infiltrated the current ruling political party in government through false citizenship. The Sotho proverb said it all ‘mmetla šipo la tlala o betla a labile gae’, translated in English (the purpose of a person is to assist his/her countrymen at all cost).*

62% of the respondents stated that politicians demonstrate political will in the implementation of immigration policies by ensuring that they are aligned to government policy documents like the NDP, the DHA Strategic Plan 2015-2020 and the current needs of the country. If gaps are identified, then the legislation is accordingly amended.

On improving staff commitment, all respondents stated that they do allow Immigration Officials to attend training and development courses, also they do support them when they are faced with difficult situation at their work.

#### **6.2.4 Capacity to implement policy (Protocol No. 4)**

On the ‘capacity’, the researcher intended to answer the question on whether tangible and intangible resources are available to implement immigration policies. Tangible resources include material resources and technological capital and intangibles resources includes motivation, qualifications, skills and experience.

### **Immigration officials**

The first question was aimed at extracting data on the qualities required from officials in the implementation of immigration policies.

All the respondents (100%) mentioned the following characteristics as important to leaders within Immigration Services: assertiveness; expertise in crowd control; strategic capabilities; integrity; leadership skills; effective communication; collaborative; problem solving and decision-making techniques; creativity; innovative; immigration laws and computer skills.

The second question was aimed at extracting data on the critical skills required to implement immigration policies, on one the hand, and on the adequacy of the staff complement, on the other. All respondents (100%) stated that they are not capacitated enough to carry out implementation as effectively as expected owing to constraints in human and other resources. Moreover, they said that the staff complement is not adequate. They mentioned two Chief Directorates, namely: Inspectorate and Permits as being short of staff. Respondents said the Inspectorate Directorate consists of only about 800 officials, yet it is expected to be effective in ensuring immigration is managed effectively in the whole country. This point is emphasised by one respondent as follows:

*“There is no capacity in the Inspectorate Directorate. Take a broader look to our gigantic township such as Mamelodi, Soshanguve and Mabopane; they are serviced by two inspectorate officials per township (male and female) and they are not fully equipped with resources like firearms or ammunitions even though townships are known to be cold and dicey.”*

The inadequate staff complement was described by another respondent as follows:

*“Study conducted revealed that Australia is serviced by 2000 inspectorate officials per Province whereas RSA goes lesser than that with Gauteng, Mpumalanga and North West combined as Provinces. These figures were also lashed out by the former DHA DG Mr. Mkuseli Apleni during an interview on eNCA in 2017.”*

70 % of the respondents stated that staff capacity constraints are also being experienced at the Permits Directorate which has about 200 officials to adjudicate thousands of applications, hence, there are visa and permit applications that were received in 2013 but are still to be adjudicated and this results in a lot of litigation. Centralisation of visa and permits application to Pretoria in 2010 was a bad move, because initially all offices of immigration in the Provinces

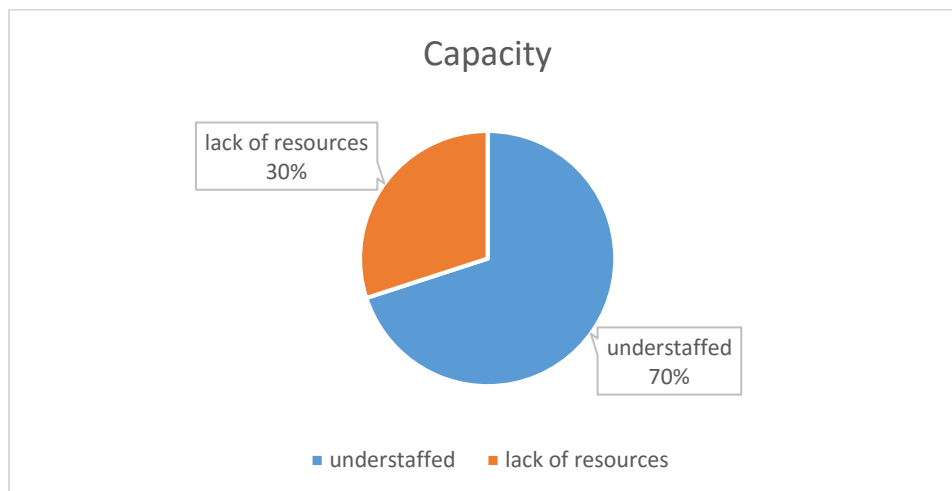


were allowed to adjudicate applicants and it was fast and efficient. In this regard, a respondent stated the following:

*“The staff at the Permits Directorate is not enough at all. We still have pending applications that are not yet adjudicated since 2013 because of staff shortages.”*

30 % of the respondents stated that lack of resources, such as computers, chairs and other furniture, affects implementation. Respondents noted that vehicles, in particular, are in short supply, especially for inspectorate officials who are expected to chase after illegal immigrants daily in the country. Figure 6.2 below depicts the capacity challenge:

**Figure 6.2: Capacity challenges to policy implementation**



The third question sought information about capacity constraints (administrative and technical) in the implementation of immigration policies.

40% of the respondents stated that officials responsible for immigration policy implementation are technically and administratively competent to implement these policies. However, 60% stated that policy implementers are not competent; they either do what they think is right or just copy what their colleagues do.

Of the 40% respondents who stated that officials are technically and administratively competent, there were a few who commented that these officials had been in the employ of

DHA's Immigration Services for more than fifteen years, and therefore they were in a better position to implement immigration policy effectively.

Some of the capacity constraints highlighted were a lack of knowledge in the law enforcement environment, for example, the writing of arrest statements by Inspectorate Officials as noted by a respondent:

*“Some Inspectorate officials cannot even write the arrest statement and they don't know how to interpret the Immigration Act (2002), Regulations and Criminal Procedures Act (1977) and this lead to some valid immigration criminal cases against the accused immigrants being thrown out of court.”*

### **Middle and senior managers**

All respondents (100%) declared that as managers they always supported training and development interventions to build good technical and administrative skills of immigration officials. However, a few managers said that immigration officials often do not have the required level of educational background to understand the field of immigration, which becomes technical at times, also monitoring and evaluation oversight is non-existent, a critical variable to determine the effectiveness of implementation. This is the view of one respondent:

*“No, not all immigration officials have the capability to implement immigration policies. South Africa has been plagued by corruption and fake qualifications and lack of proper vetting of newly appointed employees, nepotism negated employing officials based on merit.”*

Another respondent echoed the above remark:

*“The Department of Home Affairs' Monitoring and Evaluation Unit has less than five officials to do the work for the whole department. The number of officials within the Unit is not enough to assist Immigration Services with monitoring and evaluating the implementation of immigration policies”.*

On the question of resources, all respondents (100%) said that the DHA, like any other department, is faced with budget cuts from government due to slow global economic growth,

which affects the allocation of resources to offices and that puts a strain on the implementation of immigration policies. Figure 2.3 of this research stipulates that managers must assess and mobilise resources to sustain reform during policy implementation. With the continuous reduction of DHA budget, it becomes difficult for managers to mobilise all resources required to implement immigration policies. The exact reduction of the DHA budget is provided in Chapter 4.

With the feedback from respondents and what is highlighted in the case study in Chapter 4, and the scathing letter in Chapter 3, it is clear that it will be difficult to resolve capacity challenges at Immigration Services as long as the situation does not improve the staff complement at both the Inspectorate and Permits Directorates is far lower than expected and the number of applications for visas, permits and asylum are forever on the increase.

#### **6.2.5 The role of Clients/Coalitions to implement policy (Protocol No. 5)**

On ‘clients/coalitions’ variable the researcher intended to determine the level of participation of DHA clients/coalitions in the implementation of the policy.

##### **Immigration officials**

The first question was aimed at extracting data on who are the key clients/coalitions that influence immigration policy implementation?

Respondents listed the following clients /coalitions: Department of Justice, Correctional Services, and Department of Cooperative Government Traditional Affairs, the Department of Labour, the Department of Trade and Industry, Department of Basic Education, the UNCHR, various NGOs, Lawyers for Human Rights and the South African Police Services.

The second question was aimed at extracting data to determine how clients/coalitions influence the implementation of immigration policies.

40% of the respondents stated that civil society contributes by making inputs into the proposed changes to immigration legislation, including that which affects society and government

departments. However, some respondents said that South African business have accused the DHA of “selling” the country to foreigners by granting immigrants visas and assisting them with their businesses while their businesses collapse. 60% of the respondents stated that clients/ coalitions assist in ensuring that all immigrants in the country are properly documented and given government services wherever possible especially the NGOs, as provided in the case study in Chapter 4 and in Chapter 3 under the legislation framework.

The purpose of the third question was to extract data pertaining to the challenges experienced with clients/coalitions.

30% of the respondents claimed that some coalition partners do not understand their roles and responsibilities. For example, traditional leaders act contrary to immigration legislation by giving illegal immigrants accommodation, by allocating empty sites to build their houses and by persuading the DHA officials to assist them in obtaining legal papers even if they are illegal in the country. This point is emphasised by a respondent:

*“Traditional leaders in rural areas give illegal foreigners accommodation in the form of building sites (stands), they fight for immigrant’s children to go to South African schools without following proper procedures and the traditional leaders fight for these illegal foreigners to be given legal documents to stay in the country permanently”.*

70% of the respondents stated that clients/ coalitions often decide not to implement what was agreed upon in a clients/coalitions meetings, especially if it is a decision that they do not support, such as the identification of illegal immigrants in their communities and assisting the Inspectorate in arresting them for the purpose of deportation. Moreover, some clients/ coalitions such as NGOs like Lawyers for Human Rights, are cited as hindrances in the implementation of immigration policies. They oppose immigration services’ every action and, if that action is not in line with what they want and support, they are quick to go to court and block it.

### **Middle and senior managers**

All respondents stated that the influence of clients/ coalitions, especially the NGOs, is based on them protecting and promoting their own interests or agendas; hence, they challenge the DHA through the courts regarding every decision on immigrants in the country.

This point is emphasized by one respondents:

*“They are protecting and preserving their own interests or agendas of their funders at the expense of the country and its citizens, instead of assisting the Department of Home Affairs to deal with the issues of immigration in the country, they just challenge every action.”*

All respondents agreed that lack of proper understanding of immigration objectives and of how the immigration processes should be followed is a challenge.

One respondent emphasise this points as follows:

*“Challenges with coalition partners might be a lack of knowledge and understanding of the refugee and asylum seeker regime. Also how the asylum process works might be a factor causing challenges. More engagement, workshops, meeting and stakeholder forums offers benefits towards better partnership and understanding how the asylum regime works.”*

### **6.2.6 Communication around policy implementation (Protocol No. 6)**

With regard to the ‘communication’ variable, the researcher wanted to determine the effectiveness of communication across all levels and structures within the Immigration Services.

#### **Immigration officials**

The first question was aimed at gathering data on whether officials responsible for immigration policy implementation have access to all communication platforms such as DHA Circulars, Directives, emails, SOPs, DHA websites, Ikhaya magazine, and news letter from the DG; the Minister; and the Deputy Minister of the DHA.

30% of the respondents stated that they do not have access to communication platforms such as emails, DHA website, news letters from the DG, the Minister and the Deputy Minister owing to the nature of the work they do which does not allow them to read such documents at work. They have also stated that at least the Ikhaya magazine provides them with the latest developments regarding policy issues because they can read it in the comfort of their own time at home. However, 70% stated they do have access to communication platforms like emails and DHA website, and this is where they receive correspondences and documents that guide them on the implementation of immigration policies.

The second question was aimed at eliciting data on the effectiveness of communication between immigration officers and their managers regarding the implementation of immigration policies.

20% of the respondents stated that communication is effective, and 80% said communication between themselves and their managers is not effective because they hardly hold meetings to discuss work related issues and the department does not have an internal communication policy. They sometimes rely on observing other officials doing the work and they do the same. This practice has an element of officials imitating inappropriate behaviour, which results in the poor implementation of immigration policies.

This point is emphasised by one of the respondents:

*“Communication is not effective as we don’t have staff meetings as expected. Important documents such as circulars, directives, SOPs do not reach us and these are important documents to guide us on procedures to be followed when performing our work, and this lead them in observing others performing the process and they do the same even if what they are doing is wrong”.*

Another respondent mentioned the following:

*“Communication is regarded as an ad hoc exercise. There are many sub-directorates within the Permits Directorate, and everyone works in their own way which creates silos and inconsistencies in the application of the very same Immigration Act (2002) that must be applied uniformly and consistently, also the department does not have its own internal communication policy.”*

### **Middle and senior managers**

All respondents stated that they support immigration officers by ensuring that they have access to communication platforms such as GroupWise for emails, DHA website, Ikhaya Magazine, circulars, directives, SOPs and the news letters from the DG, the Minister and the Deputy Minister. However, due to resource constraints, some immigration officers do not have access to such platforms. They further stated that they communicate with those immigration officers who do not have time to check their emails to ensure that they receive information regarding developments within the Immigration Services.

In responding to this question one respondent stated the following:

*“No, not all immigration officials have access to email facilities. Even those who have access, they don’t have enough time to access them because of the hectic nature of their work. In this case they only rely on staff meetings regarding the latest development in immigration.”*

On whether they think communication was effective, 62% of the respondents agreed. However, 38% stated that it was not ineffective. Those who said that communication was not effective based it on the fact that sometimes officials from the same directorate will use different processes to do the work that demand the same procedure. This is an indication of lack of proper communication and exposure to the same guidelines. Inadequate communication across immigration directorates, amongst immigration officers and between managers leads to a lack of uniformity, as indicated in the following comment made by a respondent:

*“Communication is one element that is clearly lacking. You see it even in policy implementation where one will be doing things differently from the same directorate or sometimes from two different areas doing the same process differently.”*

Literatures provided that communication in policy implementation is embodied in tangible tools that convey information. Failure by the DHA to provide all necessary platforms creates challenges in the effective implementation of immigration policies. This impacts on the constitutional and legislative mandate the department is expected to execute. Until all policy implementers have access to all information required for policy implementation communication challenges will never be resolved.

### 6.2.7 Coordination policy implementation (Protocol No. 7)

On ‘coordination’ the researcher intended to establish the effectiveness of coordination within the DHA’s Immigration Services and among the implementation partners on policy implementation.

#### Immigration officials

The first question posed was aimed at eliciting data on the key issues that require intra- and inter- coordination in immigration policy implementation.

40% of the respondents claimed that the key issues that are coordinated include managing illegal and undocumented migrants and the formulation of crime prevention strategies with other law enforcement agencies, such as the South African Police Services, the Department of Justice and the Hawks.

60% of the respondents stated that coordination is about capacity building, and skills development including training on new changes and amendments in immigration policies. This perception is reflected in the following comment:

*“Key issues that needs coordination revolves around capacity building and utilisation of resources; financial and human resources with the coalition partners regarding immigration policy implementation.”*

Another respondent made the following observation:

*“Coordination involves the training of government officials on immigration related issues, including those working at the South African Police Services, Local Government, Courts about visa, permits and asylum issues.”*

Coordination between the DHA and local government level helps traditional leaders in fulfilling their role of bringing about peace and social cohesion during times of conflict and social unrest in communities where the presence of immigrants may lead to xenophobic attacks. Coordination with traditional leaders and civil society is done through Izimbizo, which



is a government programme involving consultation with communities (DHA-Annual Report, 2016-2017: 26).

Traditional leaders are expected to play a significant role in assisting the DHA with immigration related issues, although some tend to contravene the Immigration Act (2002) by allowing illegal immigrants to reside in their areas. Their role is still important to ensure that they inform the DHA if there are immigrants or people in their areas that are not known.

The second question was aimed at extracting data on how coordination strengthen partnership in the implementation of the policy.

60% of the respondents stated that immigration policies promote coordination with some of their coalition partners because the DHA's Immigration Services has signed a memorandum of understanding<sup>10</sup> (MoU) that regulate their interaction, although some coalition partners tend to ignore terms and conditions of the MoU. All implementation actors are obliged to advance the interests of the government in policy implementation and are expected to report issues that are not in line with the public services code of conduct. However, the MoU cannot be enforced and it becomes difficult to hold those who are not complying accountable like the traditional leaders. One of the respondents stated the following regarding accountability:

*“People commit themselves by complying with our policies, this includes those who blow the whistle to report corruption and malfeasants in public service and the memorandum of understanding assist in ensuring smooth relations with coalition partners”.*

40% of the respondents stated that coordination is addressed through bilateral agreement and collegiality and if other implementing partners are not playing their part it becomes difficult to hold them accountable. In this regard, one of the respondents stated the following:

---

<sup>10</sup> Is a type of agreement between two or more parties indicating an intended common line of action. MOU is non-binding and legally non-enforceable and is only an agreement.

*“The coordination among implementation partners is limited as it is clear that traditional leaders choose what they want to implement when it comes to immigration laws because there is no binding contract to hold them accountable, it is just a memorandum of understanding”.*

Respondents claimed that even if there is proper coordination between Immigration Services and coalition partners, meeting minutes are usually not recorded which reduces proper management of the partnership. Moreover, a new chairperson will often be nominated to chair and run the next meeting, which further reduces continuity and accountability.

The third question was aimed at extracting data on the effectiveness of the coordination of work between immigration officers and their supervisors.

From the responses, 50% of the respondents from the Permits Directorate stated that coordination was not effective because some supervisors do not have a thorough understanding of immigration legislation, and when they are expected to lead and coordinate their work, it becomes a great challenge. This point is emphasised by one respondent:

*“There is always no coordination as most managers do not understand immigration legislations. For example, managers always complain that inspectorate officials are always on the streets and they do absolutely nothing forgetting that one of the objectives of the Inspectorate Office is the detection, inspection, identification, arrest and investigation of all matters related to immigrants including illegal immigrants in the country.”*

50% of the respondents from the Permits Directorate stated that they hardly hold work meetings with their supervisors, and the last meeting they had was in March 2017. Only informal meetings still exist in their directorate, and thus there is no engagement with officials regarding operational challenges. Moreover, those informal meetings fail to take place at times, even after an announcement has been made inviting officials to attend those meetings. A date would be announced for a meeting, and at the last minute, the meeting will either be cancelled or postponed. However, directorates like the Inspectorate do hold short morning meetings to discuss plans for the day and to draw security equipment and tools that would be used on that particular day. The following is a quote from one respondent from the Inspectorate:

*“We start by holding a morning parade meeting for a plan of action as well as pulling out tools that would be utilised for that particular day.”*

### **Middle and senior managers**

62% of the respondents stated that coordination is about discussing changes effected in the Immigration Act (2002) with both intra- and inter- organisational stakeholders and updating immigration officials about how to follow new processes of implementing them. These stakeholders are directly affected by changes that are made in immigration legislation. For example, if there are changes in study visa requirements, communication must be directed to both the Department of Basic Education and the Department of Higher Education. The Department of Labour is consulted if there are changes in the work or critical skills visas. The Department of Trade and Industry is consulted if there are changes in business visas. The Department of International Relations and Cooperation is consulted if there are changes in diplomatic and treaty visas. The UNHCR will be consulted if there are important issues to discuss regarding asylum seekers and refugees. Moreover, 38% of the respondents stated that the effective use of scarce resources to benefit all coalitions/clients is always high on the agenda for coordination, which is summed up by the following statement made by a respondent:

*“Key issues of coordination revolves around resources: financial and human and capacitating officials and coalition partners with more information on immigration policies.”*

Another respondent stated the following:

*“The policy is aligned to the provisions enshrined in the Constitution of the country, international obligations and national government priorities and all role players in the policy implementation have to ensure that they report on the activities that is expected of them through continuous partners and the terms and conditions of the memorandum of understanding.”*

On the issue of accountability through coordination, one of the respondents stated:

*“The government of South Africa accounts to the United Nations. On an annual basis the Constitutional obligations of RSA in respect of the implementation of international agreements is closely monitored by international bodies within the country and civil society. They report about issues of immigration particularly asylum seekers and refugees in their publications and the implementation of immigration laws in the country are not according to the provisions of international treaties then the country will be expected to give answers to that.”*

Regarding coordination of work at the Immigration Services, all respondents stated that work coordination with their sub-ordinates is managed through staff meetings to discuss issues related to immigration policy implementation. Directorates like the Inspectorate hold daily meetings to update and brief immigration officers about the plan for the day. A direct quote from one respondent states:

*“Daily meetings are being held to help staff to keep abreast with new information and development in immigration, like stolen immigration stamps, new approved passports of other countries, outdated passports and so forth.”*

Another respondent echoed the use of meetings for the purpose of coordination as follows:

*“Coordination is done through weekly operational meetings between the operational managers and daily meetings between operational manager and staff.”*

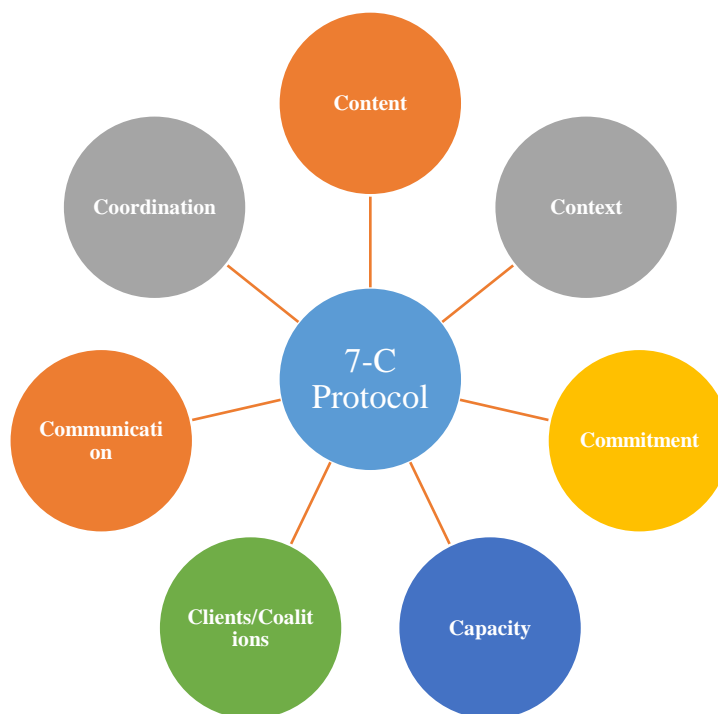
### **6.3 Research Findings and Analysis**

The focus of this section is to turn the data collected from respondents into information relevant to the research and to analyse it by using the 7-C Protocol instrument illustrated in Figure 6.3. The research findings will be arranged and analysed in the same format as the fieldwork results. The findings of the research would respond to the research question, which sought to assess whether immigration policies are implemented as planned? on the one hand, and to understand the principal factors that affect policy outputs.

It is important to note that the 7-C variables are not mutually exclusive. They are interlinked and can influence one another in the implementation process. For example, compliance with

immigration, refugees and various international conventions reflects the regulatory content of the policy, while the actors that implement the policy can also construe it as commitment. In the same sense, contextuality is also inferred through the measure of compliance in that it shows the nature and culture of institutional processes that is responsible for the implementation of the policy. Capacity is implied in the creation of knowledge and in ensuring the availability of resources to carry out policy outcomes, while good coordination with other implementation clients/coalition partners could also assist to close the skills gap and in supply of resources required by DHA's Immigration Services. The availability of communication strategies will ensure better understanding of the goals, objectives, roles and responsibility to both internal and external immigration policy implementers.

**Figure 6.3: The 7-C Protocol as an instrument of policy assessment**



- Content of Policy (Protocol No 1)

The content of the policy paves the way on how the policy can achieve its intended purpose and objectives (Brynard, 2000:180). From the literature review and data collected, this research

wanted to assess whether immigration policy implementers understood the content and the intentions and purposes of immigration policies.

It is clear from data collected that Immigration Officers and their managers understand the purposes of immigration policies. However, ambiguity still exists and is demonstrated where when some managers put pressure on immigration officials to fast track visa or permit applications of their friends and acquaintances against the spirit of the Constitution (1996), at which it clearly stipulates that “public service must be provided impartially, fairly, equitably and without bias”.

The data also shows that implementers of immigration policies understand the role of immigration in creating a desirable social welfare state where all people regardless of their social origins live comfortably with one another as reflected in Chapter 2 of this research. Also they indicated the critical role immigration policies play in developing the economy of the country through sectors such as tourism, also in ensuring that business investors and those with critical skills are not struggling to get visas to enter the country. However, because of resource constraints, Immigration Services is failing to apply the Immigration Act (2002) because it prescribes that “Temporary residence visa and permits must be issued efficiently and expeditiously without delay to all immigrants who meet the standard requirements”. The findings by the Public Protector and a number of Court cases presented in Chapter 4 is a clear indication of the challenges in the implementation of immigration policies.

According to the data collected, the availability of informal policy documents, such as circulars, SOPs and directives, assist policy implementers to gain a better understanding of the immigration processes because some Immigration Officials do not have the legal background and qualifications to understand legal technicalities and processes in the immigration environment. However, access to these documents to many Immigration Officials is a challenge.

Some respondents also claimed that some managers often do not give them the necessary support to ensure that everyone understands the objectives of the policies. Moreover, another issue raised was the delay in circulating circulars, which sometimes negatively impacts on the decisions that are already taken.

- Context of the policy (Protocol No 2)

Context in policy implementation sets the limits in terms of what must be done or not done during implementation stages. After the content of the policy is addressed in the policy, institutional readiness in terms of culture and structure of the organisation must also be addressed. The context of the policy focuses on social, economic, legal and political issues that must be addressed. In respect of context, it seems that efforts have been made to link immigration policies with broader socio-economic government's policy objectives envisaged in the NDP, which includes reducing high unemployment, poverty and inequality.

Data extracted from respondents indicate some of the social and economic factors that influence immigration policies are beyond one country's control. Other countries, especially in Africa and specifically SADC countries, have been affected by political conflicts and wars, and their economies are underdeveloped and struggling hence the influx of those migrants into the country as reflected in the case study in Chapter 4. This leads to policy developers apply stringent measures to exclude foreigners the country does not need. However, in terms of refugees laws immigrants from countries experiencing wars, cannot be excluded from entering into the country and the regulation applied to those foreigners should be in line with international treaties.

The support from managers to their subordinate within the Immigration Services is not enough. According to data extracted, immigration officers are not satisfied by the support they are getting from the managers. They don't guide them well to understand the immigration policies and they advise them about the strategic direction of Immigration Services. Hence, the inefficiencies, litigations and the loss of court cases highlighted in the case study in Chapter 4.

The inclusion of work and study conditions in the Section 22 Permit under the Refugees Act (1998) exacerbated the influx of immigrants into the country.

The influx of asylum seekers proved that the immigrations institutions and the country's economy was not ready to absorb such a high number of immigrants. The inefficiencies in the treatment of asylum seekers provided in the case study in Chapter 4 and the scathing letter sent

to the president by the Lawyers for Human Rights is an indication that there are gaps in terms of context in the implementation of immigration policies.

South Africa does not have refugee camps which becomes a pull factor to most foreigners who know that, once they are admitted into the country, they will mix and live freely with other people in the communities and not in refugee camps.

- Commitment to implement the policy

Commitment is one of the core variables and it is important at all levels of the implementation process and not just at the coal face. When the processes and procedures in the implementation of the policy are established within the institution, those entrusted with policy implementation must show commitment to implement the policy. The literature review provided that commitment is important at all policy levels where policy passes, whether at street or state levels. Commitment is so important that it influences all other 7-C variables.

Data extracted show that support from political executives and managers in the implementation of immigration policies is lacking in the provision of critical resources, such as human and financial capital.

Immigration policy implementers have been complaining about the shortage of the resources for long, with no permanent solution in sight, and only a little is provided in the form of staff complement as reflected in Table 4.2 in the case study in Chapter 4. Working conditions are also not improving. However, some participants said politicians are only good at giving advice on immigration policy implementation. This means the support from politicians in terms of resources is not at the desired level, but advice is always given.

Lack of commitment is also demonstrated in the Supreme Court of Appeal case in Chapter 4 where the Minister and the DG of the DHA decided to appeal against the Western Cape Division of the High Court Order that forced them to finalised 473 applications for visas and permits for immigrants which were already outside the turnaround times. The DHA appealed against the order despite the fact that they did not do what was expected of them in finalising the applications within the required turnaround times. This is one of the reasons why the DHA is losing a lot of money litigations, as highlighted in Chapter 4.



It is also worrying that immigration officers are not holding meetings as often as they should to discuss and resolve work related issues. Thus, meetings have become a luxury instead of a necessity to immigration officers. Another challenge is that immigration officers often receive instructions from their managers to fast track visa or permit applications of friends, relatives or political acquaintances. This makes immigration officers realise that commitment to applying the law consistently is nonexistent.

The fact that some immigration managers are only interested to show support during dispensation projects that are in the public media, like the Zimbabwean and Lesotho cases, is also a worrying factor because commitment to implementation must not be selective.

- Capacity to implement policy

When the objectives and purposes of the policy are understood, and the institution is ready for policy implementation with committed officials, capacity becomes a variable that will assist the organisation in ensuring effective policy implementation.

Capacity in public policy implementation aims at raising the quality of life of citizens, which the government has set out to deliver over time. In this context, it follows, therefore, that adequate capacity is key to the successful implementation of immigration policies. Cloete et al. (2018:208) state that a combination of both tangible and intangible resources is significant to ensure adequate capacity for successful policy implementation.

In this research all respondents are clear about the skills qualities required of an official who can lead the implementation of immigration policies. However, with regard to capacity to implement immigration policies, all respondents cited lack of human resources and other resource as a dominant problem. Some respondents said they do not have resources, such as chairs, computers, vehicles and security equipment, which are essential to implement the policy effectively. A shortage of staff, is reflected in the case perspective in Chapter 4, Figure 4.2 and in the research results in Chapter 6. This is an indication that officials are expected to work more with less resources under difficult circumstances.

Inspectorate and Permits Directorate, experience a shortage of staff; in fact, the Inspectorate has only 731 inspectorate officials to run the inspectorate function for the whole country, which

is inadequate for managing the large number of reported illegal and undocumented immigrants in the country. As reflected in the findings of the study, other countries have invested a great deal of resources in immigration, which means that their immigration problems are less complicated and manageable compared to South Africa. For example, Australia has 2000 immigration officials per province, which is more than DHA's 731 for the whole country (DHA- Annual Report, 2017-2018:95).

This is a clear indication that the Inspectorate Directorate within the Immigration Services is grossly understaffed and that it may even be impossible for that limited number of officials to remove all the undocumented and illegal foreigners in just one province.

Figures 4.1 and 4.1 in Chapter 4 both show that Immigration Services has not increased its staff complement as expected. Figure 4.1 shows that, in 2017, immigration services had a staff complement of 1 782; however, in 2018, as reflected in Figure 4.2, that number slightly increased to 2 087(DHA Annual report, 2017-2018:134). This increase is still not enough when considering the huge task of Immigration Services.

The staff shortage in the Permits Directorate is also a worrying factor because the country needs to attract a high number of immigrants with critical skills and business investors as highlighted Protocol No: 1 Content. With a total of 210 officials in the Permits Directorate, it is not surprising that there are still pending cases that have not been adjudicated since 2013, and the DHA continues to lose court cases due to these inefficiencies and lack of capacity as highlighted in the case study in Chapter 4. Moreover, the case study in Chapter 4 reflects the litigation claims to the value of R166, 8 million, was as result of delays in the issuance of visas and permits within the turnaround times. The centralisation of adjudicative functions from the provinces to Pretoria in 2010 exacerbated the problem because when provinces were still allowed to adjudicate visa and permits claims, application were finalised efficiently and expeditiously.

The frustration of the Hillegondsberg family, presented in Chapter 4 o is a clear indication of lack of administrative capacity by the DHA officials. The Public Protector had to rescue the family due to bungling and efficiencies at the DHA. The lack of immigration Unit that deals

with monitoring and evaluation of the implementation creates a gap in the effective implementation of the policies. The treatment of asylum seekers described as “very harmful, unlawful and cruel practices and policies” by the lawyers for Human Rights on the scathing letter sent to the President of the country highlights lack of capacity at the DHA offices.

Another capacity constraint identified is the Inspectorate Directorate’s lack of administrative and technical skills. Data extracted show that 70% of the respondents stated that immigration officials lack the required knowledge and skills to implement immigration policies. A particular area highlighted was the failure by Inspectorate Officials to write arrest statements. This means immigration cases for those foreigners who have contravened immigration laws end up being thrown out of court because of poorly written arrest statements. A lack of the required understanding of immigration laws on the part of officers was also identified as a serious issue by both the Inspectorate Officers themselves and their managers, which negatively affects the effective implementation of immigration policies.

The litigation bill of R499, 1 million against the DHA was as a result of unlawful arrests by Inspectorate Officials, which shows a lack of technical skills and understanding of immigration and other criminal laws that are applicable before a person is arrested.

The case study in Chapter 4 presented data that showed that the institutional capacity and efficiency is lacking in dealing with appeals and deciding on asylum cases on time. Migrants are illegally arrested, including asylum seekers which is in violation of the Refugees Act (1998) and international laws. This exposed the DHA to more litigations.

Capacity challenges are also demonstrated by the increasing number of undocumented and irregular migrants in the country and that poses a serious security risk for the country (SIHMA, 2014:20). Additionally, an inadequate institutional mechanism to deal with appeals for asylum seekers has also proven to be a serious challenge.

Key challenges in the refugee regime includes: difficulties in renewing Section 22 permits by asylum seekers, inadequate translation services; and problems with replacing stolen permits due to maladministration and corruption.

Another challenge faced by the DHA's Immigration Services is a lack of the Monitoring and Evaluation Oversight Unit within Immigration Services. The Monitoring and Evaluation Unit of the DHA has less than five officials to do monitoring for the entire department and it is impossible to allocate even one official to assist with the monitoring and evaluation the implementation of immigration policies.

- Clients/Coalitions

Public policy implementation acknowledges that the participation of clients/coalitions is very important ensuring effective policy implementation. To ensure that the DHA's Immigration Services closes capacity gaps, it is important that it forms a coalition with opinion leaders and interest groups. Although this research focuses on the Immigration Services, the involvement of clients/coalitions is provided in Chapter 4.

The DHA's Strategic Plan 2015-2020 encourages government and society to "effectively manage immigration in a way that maximises security; development; constitutional and international obligations; nation building; and social cohesion" (DHA-Strategic Plan, 2015-2020: 2). For better public policy implementation, the government should join a 'coalition' of all actors who support a particular implementation process. Determining influential clients/coalition should be the first task taken by policy implementers. The support by outside coalitions is a critical variable if implementation is affected by the formation of a local coalition with individuals during policy implementation.

The involvement and the participation of clients/coalitions is provided in the case study in Chapter 4, where various government departments and NGOs such as Lawyers for Human Rights, SIHMA, ACMS and individual immigrants are taking an active role in the implementation of immigration issues.

Clients / coalitions ensure the effective implementation of immigration policies by assisting immigrants with the documentation required for required in the country. Moreover, they facilitate inputs by other interest groups in policy development, which are included in final policy document. However, a challenge cited by 70% of the respondents, is that some of the

NGOs push their own agendas to advance the interest of their organisation. They do that if they feel it does not benefit people they represent, especially their funders, like the Lawyers for Human Rights, as reflected in the case study in Chapter 3 and 4 and the research findings.

Traditional leaders and local municipal councillors also contribute to the challenges of immigration policy implementation due to a lack of understanding of their roles as part of state organs. This is shown by their allocated sites to illegal immigrants to build their houses, even though they know that they are residing in the country illegally. Thus, they act in contravention of the Immigration Act Section 42 and 49 (RSA, 2002). Moreover, they still contravene the Immigration Act (2002) by asking inspectorate officials to facilitate the documentation process of illegal immigrants. Their main role is to assist the Inspectorate in arresting illegal foreigners, not facilitating documentation acquisition and accommodation of illegal immigrants in the country. Local municipal councillors are also supposed to play their role in ensuring that they notify the DHA if there are illegal immigrants applying for services in their local municipal areas. Instead they campaign for them to be documented because they need a large electorate, which is tantamount to selling the country and compromising its security.

All respondents agreed that clients / coalitions, such as traditional leaders and municipal councillors, need training to empower them with skills and knowledge of immigration so that they know and understand their roles in government, instead of being a law unto themselves. In addition, business people in South Africa need to be trained to understand that some foreigners come to South Africa as asylum seekers and the Refugees Act (1998) allows them to work and study as defined in the Immigration Act (2002), also they are allowed to open small businesses so that they become self-sustainable and self-sufficient because South Africa does not have refugee camps.

- Communication

Communication, like the commitment variable is important at all policy levels where policy passes. No organisation can effectively implement policies without proper channels of communication channels and strategies. Implementers of the policy need to be updated in all the stages of implementation. It has been established in this research that not all Immigration

Officials have access to communication platforms such as GroupWise- emails and DHA website. Moreover, they don't have access to correspondences such as DHA circulars, directives, Home Affairs Today, Notes from the DG desk and the newsletters from the DHA Minister and Deputy Minister. DHA Ikhaya Magazine is easily accessible to all officials.

The data analysed showed that 30% of the respondents stated that they do not have access to communication platforms such as emails, DHA website, internet and DHA data base. This also reflects negatively on managers because immigration policy implementers, particularly immigration officers must have an unhindered access to all communication platforms to be able to have immediate access to important information. Any delay in implementing new amendments might prevent effective immigration policy implementation, and the DHA might face more litigations. The research revealed that external clients are informed about changes to immigration policy before immigration officers. Even managers agree that not all immigration officers have access to all communication platforms.

Effectiveness of communication between immigration officers and their managers also is a worrying factor because 80% of the respondents stated it was not effective. This is not surprising as it was indicated that meetings are not being held as expected between immigration officers and their managers, although there are different directorate within Immigration Services, like the Inspectorate, that do their best to hold short meetings every weekday in the morning to update staff about plans for the day and the latest developments in immigration. However, the majority of managers are convinced that communication is effective.

This shows a disconnection between immigration officers and their managers because, for any problem to be solved, there must be an admission that the problem exists. In other words, managers stated that communication is effective while immigration officers experience it as not, which indicates a lack of consensus due to a problem with communication. Moreover, respondents mentioned that the DHA does not have its own internal communication policy and relies on the government policy from the Government Communication and Information System as its policy base. This is a critical communication challenge because an approved internal policy is needed to control all internal communication protocols.

- Coordination

Scholars in Chapter 2 acknowledge that coordination is important to identify key actors that add value to public policy implementation. If the coalition of opinion leaders and interest groups is established and communication platforms are integrated, coordination will assist in expanding the knowledge base in policy implementation, moreover it will add more resources to help in the implementation.

Coordination is defined as “an action of coordinating; harmonious combination of agents and functions towards the production of a results” (Cloete et al., 2018:212). This relates to the managing of intra- and inter-organisational coordination and cooperation in policy implementation. Intra-organisation coordination focuses on the working relationship among government departments and agencies within the same organisation, whereas inter-organisational coordination refers to interaction among unrelated organisations, for example, the government, NGOs and donors.

The respondents commented on issues that need coordination between the Immigration Branch and other government agencies, including addressing the issue of illegal or undocumented migrants, capacity building amongst all coalition partners and the utilisation of resources. All coalition partners need to know and understand their roles in the implementation of immigration policies so that they fulfil those roles optimally.

The case study in Chapter 4 explained that coordination among client/coalitions is weak with many challenges and difficulties that affect effective implementation. This point is further emphasised by respondents who claimed that coordination between immigration and external coalition partners, like traditional leaders and local councilors, is not effective because of the lack of common understanding and accountability on the roles and mandate allocated to them.

One of the challenges highlighted is that, even if meetings are held, nobody records the minutes, which means that there is no accountability. Immigration officers maintained that there is a lack of work coordination between them and their managers. According to data collected, 50% of the respondents stated that managers always fail to organise formal

meetings, instead they preferred short informal meetings. Moreover, immigration officers said the last time they held a full meeting was in March 2017.

The importance of coordination is summarized by Jones and George (2003:314), who maintain that, “the greater the complexity of an organisation’s structure, the greater is the need for coordination among people, functions and divisions to make the organisational structure work efficiently and effectively”.



## **Chapter 7: Conclusion and Recommendations**

### **7.1 Introduction**

Chapter 6 provided the fieldwork results and analysis of the research. The data indicated that the DHA is the lead department in the implementation of immigration policies, the role of other stakeholders is minimal. The data collected proved that the implementation of policies is not adequate, they are affected by a variety of factors such as resource constraints, poor implementation and lack of commitment from some stakeholders.

Lack of monitoring and evaluation is also seen as a risk factor in effective implementation. Chapter 7 offers a reflection on the implications of these findings for the Immigration Services at the DHA, followed by recommendations that may be taken to improve immigration policy implementation. The chapter also addresses the future research needs within the context of immigration policy implementation.

Chapter 2 of this research provided that there are challenges and complexities in the implementation of public policies caused by lack of required resources and at times support from interest groups and political executives. The impact of top-down, bottom-up and third generation paradigms also highlighted the approaches that can be adopted in the implementation of public policy, with the top-down approach seeking to explain what is right or wrong with the implementation process and with the institution responsible for implementation the policy itself. The bottom-up proposes increase emphasis on the qualities of the implementers as key actors in the public policy process, a reciprocal and smooth process of mutual adaption between policy makers and policy implementers and the third paradigm trying to address challenges as they arise.

The purpose of this research see Chapter 1 is to assess the application of the 7-C Protocol to in the implementation of immigration policies at the DHA: A case study. The purpose of choosing this instrument was explained in Chapter 5. Based on literature review and data collected, in answering the research question, the researcher concludes that the implementation of immigration policies is not implemented as planned, and this can be attributed to the following:

- Implementers of immigration policies are not implementing the policies according to the set goals, objectives and international obligations.
- The positioning of the policy within Immigration Services has not provided the necessary strategic direction and leadership for its implementation, which has affected commitment to implement.
- Lack of administrative capacity and resources has also proven to be a key challenge in effective implementation.
- The non-existent of communication platforms and internal communication policy affects policy implementation.
- The coordination of policy implementation between critical groups of clients and coalitions is weak.
- The Monitoring and Evaluation system to track and report on immigration policy implementation is non-existent.

## **7.2 Recommendations**

To improve the implementation of immigration policies, the following recommendations are made:

### **7.2.1 Recommendation 1: Orientation of DHA Officials on the content of immigration policies.**

There appears to be a general understanding of the purpose of immigration policies by all immigration policy implementers. However, due to the shortfalls that are provided in Chapter 4 and as indicated by some of the respondents, the following is recommended:

- Officials must be orientated towards the content of immigration policies to understand the difference between immigration objectives and the mandates as well as the content of the policies.
- Officials must be oriented about the purposes of the Immigration and Refugees Act (1998). They must ensure that when they implement Immigration Act (2002), the intention is to regulate the admission, stay and departure of all immigrants in the country. With regard to the Refugees Act (1998), they must ensure that they give

protection to those immigrants seeking asylum in the country and not to subject them to detention and deportation.

- Managers must set aside time in the week to explain to Immigration Officials the DHA circulars, SOPs and directives to ensure understanding and better implementation.

### **7.2.2 Recommendation 2: Management of asylum seekers and refugees**

The broader purpose of immigration policy is defined in line with other government policies that are aimed at the socio-economic development of the country. Thus, the inclusion of work and study conditions in the Section 22 Permit of the Refugees Act (1998) proved to be a pull factor for asylum seekers and other economic migrants who, after realising that they do not qualify for a normal work visa opt to use an asylum regime. This has resulted in the asylum seeking system being overloaded and overburdened by applications that do not meet the requirements. This impacts on RSDOs and they end up treating all asylum applicant with suspicion and reject even legitimate application as highlighted in the case the study in Chapter 4. Therefore, the following is recommended:

- Officials must comply and apply all international agreements on immigration regarding asylum and refugee issues. Not allowing immigrants to seek asylum in South Africa as reflected in Chapter 4 is not a violation of only the Section 2 of the Refugees Act (1998), but also of international laws such as the Geneva Convention (1951), the Protocol (1967) and the OAU Convention of 1969. These guidelines are clear that immigrants seeking asylum must be admitted before deciding on their applications.
- Refugee Reception Office must be accessible to all asylum seekers, this can be ensured by establishing more Refugee Reception Offices and recruiting more Refugee Reception Officials. The DHA's Immigration Services will be able ensure that all application for asylum are processed within the turnaround times.
- DHA's Immigration Services must develop a policy that will address the challenges of economic migrants.
- The penalisation of asylum seekers by fining or arresting them for the expired permits because of inefficiencies at Refugee Reception Centres must stop immediately.
- South Africa must establish refugee camps to accommodate all asylum seekers and refugees in the country.

- The condition of work and study in the Section 22 Permit of the Refugee Act (1998) must be removed, after the refugee camps are established.
- The number of translators must be increased at all the Refugee Reception Offices. Each refugee centre must have a minimum of four translators who can speak several languages
- Social and poverty grants for refugees and asylum seekers must be provided for by the UNHCR and not by the South African government.

### **7.2.3 Recommendation 3: Improve commitment to implementation**

The literature in Chapter 2 highlighted the dangers of lack of commitment to policy implementation and the data collected indicates lack of commitment from political executives and managers as reflected in the case study in Chapter 4. This research has also established that some managers have a tendency to put pressure on adjudicators to fast track visa or permits applications for their friends and acquaintances. This is a clear indication of lack of commitment from managers to implement immigration policies impartially, fairly and without bias. The reduction of the budget for Compensation of Employees and Goods & Services also highlights lack of commitment by the government in assisting immigrants with both tangibles and intangibles resources to implement immigration policies. Therefore, the following recommendations are made:

- The political principals and the DHA senior managers must desist from defending court cases that are indefensible. It is a waste of money and time and they need to do what they are constitutionally and statutory obligated to do.
- Managers must communicate openly with Immigration Officers to build trust because data extracted illustrate that managers have little trust on Immigration Officials, instead they believe that they are corrupt and they cannot be trusted.
- Immigration managers must stop putting pressure on Immigration/adjudication Officials to priorities certain visa or permit applications of their friends and political acquaintances in contravention with the spirit of the Constitution (1996).
- Managers must stop showing support to Immigration Officials only during special projects like dispensation projects and give unconditional support at all times during implementation.

- An anonymous reporting line must be established to report managers who put pressure on adjudicators to fast track certain permits or visa applications against legal procedures within the Immigration Services.
- Immigration managers should continue to report the lack of resources to their political executives and also continuously inform immigration officials about the status of all the resources in their respective directorates.
- The turnaround time for critical skills and business visas must be reduced to two weeks to ensure that the country imports all the critical skills it need and attracts business people to invest in the country to create job opportunities and to improve the economy.

#### **7.2.4 Recommendation 4: Strengthen capacity**

Resource constraints and skills gaps has been established by this research. Some skills gaps can be addressed through internal training programmes. The DHA is an accredited training provider that conducts accredited training courses for all officials. A wide variety of accredited courses are offered in the Learning and Development Directorate.

The qualification that is titled National Certificate: Home Affairs Services at NQF 5 and has 120 credits. To ensure that all training needs are addressed, various skills programmes were developed from the National Certificate. Those skills programmes are as follows: The Permitting Skills programme at NQF 5 with 32 credits; the Ports of Entry Skills Programme at NQF 5 with 42 credits; the Asylum Seeker Management Skills Programme at NQF 5 with 68 credits; and the Inspectorate Skills Programme at NQF 5 with 45 credits.

The following recommendations are made:

- All new immigration officers must not start work without attending relevant skills programmes. The current culture is that Immigration Officers start working before attending any training and that cause a lot of administrative bungling.
- All immigration officials who never attended any of the Immigration Skills Programmes must be registered for the specific skills training programmes to improve their skills and avoid further litigation as provided in Chapter 4.
- The basic requirement for recruiting Immigration Officials should be a junior degree, preferably in law, not a matric. This will help Immigration Officers to have a better understanding of legal technicalities within immigration.

- Officials from the Inspectorate Directorate must be issued with mobile devices such as Morpho Touch, with the same functionality as eMCS, to identify all immigrants in the country on the spot and to make swift arrest where necessary. The device will assist during operations like *operation fiela*<sup>11</sup>.
- The purchase of more vehicles for Inspectorate Officials should be prioritised.
- The staff complement within Immigration Service must be increased to 10 500. Urgent attention must be given to Inspectorate and Permits Directorates. Inspectorate and Permits Directorate cannot continue to perform its function effectively with the staff complement of 731 and 210 respectively. At least 2500 new Inspectorate officials must be recruited and 600 for the Permits Directorate. Each Province must have a minimum of 250 Inspectorate Officials and the provinces with metropolitan municipalities must have 300 Inspectorate Officials.
- One of the critical issues concluded from the research was that Immigration Services does not have monitoring and evaluation tools in place to support policy implementation. It is therefore recommended that the development of an M&E must be prioritised. Also on where the system will be located.

### **7.2.5 Recommendation 6: Develop active participation with clients/coalitions**

The DHA has to strengthen its relationships with its clients/coalitions, at local government level and clients such as Lawyers for Human Rights and other NGOs. Adjustments to the memorandum of understanding should be made so that all partners will act on their roles accordingly.

Therefore, the following is recommended:

- The DHA's Immigration Services must involve various coalition partners and NGOs in the implementation of immigration policies such as the Lawyers for Human Rights, SIHMA, ACMS to avoid unnecessary litigations and to ensure proper working relationships.
- The DHA must sign a Memorandum of Understanding with the Office of the Chief Justice to address issue of capacity and on how to avoid legal litigations.

---

<sup>11</sup> OPERATION FIELA is the operation by the inter-ministerial committee on migration to deal with illegal and undocumented foreigners, drugs, sexual offences etc.

- DHA's Immigration Services must establish a formal structured workshops/training programme with the traditional leaders and other coalition partners to empower them with knowledge and skills regarding immigration issues.
- The content of the workshop must consist of the following:
  - Administrative processes in Immigration Services
  - Immigration laws

#### **7.2.6 Recommendation 7: Establish effective communication channels**

On communication, the following is recommended:

- Managers within the Immigration Services must ensure that all immigration officers have access to all communication platforms such as emails and the DHA website. In addition, they should allow time for officials to read their correspondences such as DHA circulars, directives, News letter from the Minister, the Deputy Minister, and the Notes from the DG desk.
- Meeting must be structured and be incorporated in the operational plan for each manager, and they must report about those meetings during quarterly review sittings.
- The DHA must develop its own internal communication policy to facilitate effective communication and orientate all officials on policy issues. The communication policy from Government Communication and Information System must be used as a reference.
- The Communication Directorate must ensure that information on the DHA website is updated by removing all outdated information as it confuses immigrants and immigration officials.

### **7.2.7 Recommendation 8: Improve coordination with stakeholders**

For Immigration Services to be effective in coordinating its work the following is recommended:

- A clear memorandum of understanding must be developed stating the roles and the rules of engagement, including collective responsibility.
- Managers should ensure that they coordinate their work and keep immigration officers up to date with all developments in Immigration Branch.

## **7.3 Conclusion**

In Chapter 1, the researcher explained the aim of the research, which was to assess the implementation of immigration policy at the DHA's Immigration Services by applying the 7-C Protocol. The theoretical background discussed in Chapter 2 allowed the researcher to gain insight in the complexities of public policy implementation. This insight into implementation processes facilitated the research data collection and analysis, leading to a discussion of the findings in terms of improving future immigration policy.

Chapter 3 gave an overview of the legislation and implementation framework for immigration policies in South Africa, starting with the Constitution (1996). This chapter assisted the researcher in understanding the policy implications of immigration policy implementation and the challenges experienced that led to the amendments of the Immigration and Refugees Act (2002) a number of times. Chapter 4 explained the context of South African immigration policy implementation challenges post 1994 from a case perspective. Chapter 5 described the method that was used to conduct this research in terms of the research design, methodology, data collection, sampling and study population. Chapter 5 also explained the reason for choosing the 7-C Protocol as an instrument of assessment. Chapter 6 presented the fieldwork results, which entailed an analysis of the empirical data and the research findings.

The research has shown that the implementation of public policy cannot be thought of as being mechanical in nature, with administrators automatically following directives from management. In other words, the clients/coalitions' role determines effective implementation,



although there are challenges in this regard. By using the 7-C Protocol to understand policy implementation, the research has also revealed that it is a complex political and administrative process that requires the understanding of the Content and the Context of policy, Commitment, Coordination, Capacity, effective Communication and the involvement of various stakeholders thorough Coordination.

Finally, Chapter 7 concluded the research and made recommendations for improving policy implementation.

#### **7.4 Further Research on this topic is possible.**

The study was confined to the DHA's Immigration Services. During the research period, a Border Management Authority Bill was before the National Council of Provinces for concurrence. The aim of the BMA is to establish one entity consisting of various government entities and agencies to control all borders and ports of entry in South Africa. A comprehensive study is recommended to determine the effectiveness of this new entity in the implementation of immigration policies. This may take the form of a longitudinal study spanning several years. Such research would be appropriate given the capacity constraints, poor coordination, ineffective communication and challenges of coordination, institutional context and clients/coalitions highlighted in the study.

## 8 References

- Adepoju, A. N.d. *Recent trends in international migration in and from Africa* [online] available at: <http://www.foresightfordevelopment.org/.../547-recent-trends-in-international-migration-in-and-from-africa.pdf> [Accessed: 10 November 2018].
- African National Congress. 2012. Peace and Stability policy discussion document. Unpublished. Johannesburg: African National Congress.
- Agranoff, R. & McGuire, M. 2003. Inside the Matrix: Integrating the paradigm of Intergovernmental and Network Management. *International Journal of Public Administration*. Volume 26 (12): 1401-1422.
- Albertyn, C. 2008. Beyond citizenship: Human Rights and democracy. In Hassim, S., Kupe, T. & Worby, E., eds. Go home or die here. Violence, xenophobia and the reinvention of difference in South Africa. Johannesburg: Wits University.
- Aminuzzaman, S.M. 2013. Dynamic of Public Policy: Determinants of Policy making and Implementation in Bangladesh. *Public Organiz Rev*, Volume 13: 443-458.
- Amisi, B. & Ballard, R. 2006. In the absence of citizenship: Congolese refugee struggle and organisation in South Africa. In Ballard, R., Habib, A., & Valodia, I., eds. Voices of protest: Social movement in post-apartheid South Africa. Pietermaritzburg: University of KwaZulu-Natal Press.
- Amit, R. 2011. The Zimbabweans Documentation Project: lessons Learned, Johannesburg [online]. Available at: <http://www.migration.org.za/wp-content/uploads/2017/08/The-Zimbabwean-Documentation-Process-lessons-learned.pdf> [Accessed: 16 March 2019].
- Amit, R. 2012. Breaking the Law, Breaking the Bank: The Cost of Home Affairs' Illegal Detention Practices. ACMS Research Report. Johannesburg [online] available at <http://www.migration.org.za/wp-content/uploads/2017/08/Breaking-the-Law-Breaking-the-Bank-The-Cost-of-Home-Affairs-illegal-detention-practices.pdf> [Accessed: 16 January 2019].
- Barrett, S.M. 2004. Implementation studies: time for a revival? Personal reflections on 20 years of implementation studies. *Journal of Public Administration*, 82(2):249-262.
- Berman, P. 1978. The study of macro and micro implementation. *Public Policy*, 26(2):157-184
- Bryman, A. 2012. *Social Research Methods*. 4<sup>th</sup> edition. Oxford: Oxford University Press.
- Brynard, P. & De Coning, C. 2006. *Policy Implementation*. In Cloete, F., Wissink, H.D. & De Coning, C. (eds). Improving Public Policy. Pretoria: Van Schaik Publishers

- Brynard, P. 2000. *Policy implementation. Improving Public Policy*. Pretoria: Van Schaik Publishers.
- Brynard, P. 2005. Policy Implementation: lessons for service delivery. Paper presented at the 27<sup>th</sup> AAPAM Annual Roundtable Conference, Livingstone, Zambia.
- Brynard, P. 2007. The policy gap in South Africa. *Journal of Public Administration*, 42 (3):357-365.
- Brynard, P. 2009. Mapping the factors influencing policy implementation. *Journal of Public Administration*, 44 (3.1):557-577.
- Budlender, D. 2013. *Improving the quality of available statistics on foreign labour in South Africa: Existing Data Sets*. Rept. No 2. Johannesburg: University of Witwatersrand. MIWORC Reports. Web. 4 June 2013.
- Burger, A. & Silima, T. 2006. Sampling and Sampling Design. *Journal of Public Administration*, 41(3):656-667.
- Burger, R.W. 2015. *Integrated Metropolitan Environmental Policy of the City of Cape Town: An Implementation Evaluation*. Master's Thesis. Stellenbosch: University of Stellenbosch.
- Burns, S.N. & Grove, S.K. 2003. *Understanding Nursing Research*. 3<sup>rd</sup> edition. Philadelphia: Saunders.
- Carciotto, S. & Mavura, M. 2016. *The evolution of migration policy in post-apartheid South Africa: Emerging themes and new challenges*. Cape Town: The SIHMA Institute for Human mobility in Africa.
- Centre for Development and Enterprise. 2011. South Africa's migration policies. Johannesburg: Centre for Development and Enterprise.
- Cloete, F. & de Coning, C. 2011. *Improving Public Policy: Theory, Practice and Results*. Pretoria: Van Schaik Publishers.
- Cloete, F., de Coning, C., Wissink, H. & Rabie, B. 2018. *Improving Public policy: Good governance*. 4<sup>th</sup> edition. Pretoria: Van Schaik Publishers
- Crush, J. 1999. The discourse and dimension of irregularity in post-apartheid South Africa. *International Migration*, 37(1):125-151.
- De Vos, A.S. 2002. Combined quantitative and qualitative approach. (In De Vos, A.S., Strydom, H., Fouche, C.B. & Delport, C.S.L. Research at grass roots. For the social sciences and human service professions. 3<sup>rd</sup> edition. Pretoria: Van Schaik Publishers.
- Department of Home Affairs. 2013. *Asylum Statistics Report, Republic of South Africa*. Pretoria: Government Printers.
- Department of Home Affairs. 2015. *2015-2020 Strategic Plan*. Pretoria: Government printers.

- Department of Home Affairs. 2015. *DHA Service Delivery Charter*. Pretoria: DHA.
- Department of Home Affairs. 2016. *2016-2017 Annual Report*. Pretoria: Government Printers.
- Department of Home Affairs. 2017. *2017-2018 Annual Performance Plan*. Pretoria: Government Printers.
- Department of Home Affairs. 2017. *2017-2018 Annual Report*. Pretoria: Government Printers.
- Department of Home Affairs. 2019. *2019-20 Annual Performance Plan*. Pretoria: Government Printers
- DG Department of Home Affairs v De Saude Attorneys. 2019. ZASCA 46.
- Dlamini, 2014. *A Preliminary Assessment of the Implementation of the Rehabilitation Programme for Offenders in the Boksburg Management Area*. Master's Thesis. Stellenbosch: Stellenbosch University.
- Dye, T.R. 1984. *Understanding public policy*. New Jersey: Prentice-Hall.
- Dye, T.R. 1995. *Understanding Public Policy*. Englewood Cliffs, NJ: Prentice hall
- Ensor, L. 2018. NGO sends scathing letter to Cyril Ramaphosa on treatment of refugees. *Times live* [online], 20 June. Available:<https://www.timeslive.co.za/politics/2018-06-20-ngo-sends-scathing-letter-to-cyril-ramaphosa-on-treatment-of-refugees/>. [Accessed 26 September 2019].
- Ferreira, B. 2012. *A Guide to Managing Public Policy*. Claremont: Juta
- Freedman, W. 2013. *Understanding the Constitution of the Republic of South Africa*. Cape Town: Juta Law.
- Freeman, G.P. 1992. Migration Policy and Politics in the Receiving States". *International Migration Review*, 26(4): 1144-1167.
- Goodwin, R.E., Rein, M. & Moran, M.M. 2006. *The public and its policies*. In Moran, M., Rein, M. & Goodwin, R.E., eds. *The Oxford handbook of public policy*. Oxford: Oxford University Press.
- Grindle, M.S. & Thomas, J.W. 1991. *Implementing Reform: Arenas, Stakes and Resources. Public Choices and Policy Changes*. Baltimore: Johns Hopkins University Press.
- Hanekom, S.X. 1987. *Public Policy: Framework and Instrument for Action*. Pretoria: Southern Book Publishers.
- Hart, G. 2013. *Rethinking the South African crisis: Nationalism, populism and hegemony*. Pietermaritzburg: University of KwaZulu-Natal Press.
- Hill, M. & Hupe, P. 2014. *Implementation public policy: An introduction to the study of operational governance*. 3<sup>rd</sup> edition. Berkeley, CA: SAGE.

- Hogwood, W. & Gunn, L.A. 1984. *Policy Analysis for the Real World*. Oxford: Oxford University Press.
- Howie, E.K & Stevick, E.D. 2014: The Ins and Outs of physical activity policy implementation: inadequate capacity, inappropriate outcome measures, and insufficient funds. *Journal of School Health*, 89(9):581-585.
- Howlett, M. 2009. Policy analytical capacity and evidence based policy making: lessons from Canada. *Canadian Public Administration*, 52(2):153-175.
- IOM. 2008. Migrants and the host society: partnerships for success (Vol 11). Geneva: International Organisation for Migration [online]. Available at [http://publications.iom.int/bookstore/free/IDM\\_11\\_EN.pdf](http://publications.iom.int/bookstore/free/IDM_11_EN.pdf) [Accessed 18 July 2018].
- Jones, G. & George, J.M. 2003. *Contemporary Management*. New York: McGraw-Hill.
- Kamuzinzi, M. 2019. When traditional principles bring coherence in complex networks management: the case of “Imihingo” in Public Policy Implementation. [online]. Available at <https://doi.org/10.1080/01442872.2019.1577374> [ Accessed 26 September 2019].
- Knill, C. & Tosun, J. 2012. *Public policy: A new introduction*. London: Palgrave Macmillan.
- Kumar, R. 2014. *Research Methodology: A step by step Guide for Beginners*. 4<sup>th</sup> edition. London: SAGE Publications.
- Lindquist, E, & Wanna, J. 2015. Is Implementation only about policy execution? Advice for public sector leaders from the literature. *Annu Press*, [online]. Available at <https://www.jstore.org/stable/j.ctt15v3xxt.12> [ Accessed 26 September 2019].
- Lundin, M. 2007. When does Cooperation Improve Public Policy Implementation? The Policy Studies Journal, 35(4): 629-652.
- Madigan, E.M., Petulich, C. & Motuk, K. 2004. *The cost of non-compliance when policies fail*. Proceeding SIGUCCS '04 of the proceedings of the 32<sup>nd</sup> annual ACM SIGUCCS conference on user services. Pennsylvania.
- Madonsela, T.N. 2012. *Unconscionable Delay* (Report No. 21 of 2011-2012). Pretoria
- Marume, S.B.M., Mutongi, C. & Madziyne, N.C. 2016. An Analysis of Public Policy Implementation. *Journal of Business and Management*, Volume 18(4): 86-93.
- McGuire, M. & Agranoff, R. 2011. The Limitation of Public Management Networks. *Public Administration*, 89(2): 265-284

- McKinley, B. 2006. *Facts and Figures: Migration in the twenty-first century*[online]. Available at : <http://www.iom.int/august>. [Accessed: 18 July 2018].
- Meyer, T. 2002. *Media Democracy: How the Media Colonize Politics*. Cambridge: Polity Press.
- Mnculwane, V. & Wissink, H.F. 2014. The regeneration of the case study methodology to understand the complexity of policy implementation. *Administration Publica*, 22(1):86-107.
- Moharir, V. 1986. *Decentralized policymaking and centre-region relations in the Sudan*. In Van der Wel, P., Ghaffar., A. & Ahmad, M. (Eds). *Perspectives on development in the Sudan*. Khartoum: DSRC.
- Mouton, J. 1996. *Understanding Social Research*. Pretoria: Van Schaik Publishers.
- Mthethwa, B.S.V. 2014. *A comprehensive model for the implementation of national public policies and guidelines: Empangeni Education District*. Doctoral Thesis. Potchefstroom: North West University.
- Musuva, C.K. 2015. *International Migration, Xenophobia and South African state*. Doctoral Thesis. Stellenbosch: University of Stellenbosch.
- Najam, A. 1995. *Learning from the literature on policy implementation: a synthesis perspective*. International Institute for Applied Systems Analysis, Working paper, 1-70.
- Neocosmos, M. 2010. *From foreign natives to naïve foreigners: explaining xenophobia in post-apartheid South Africa: Citizenship and nationalism, identity and politics* [online] available at : <https://www.codesria.org/img/pdf/neocosmos-2.pdf?86/>. [Accessed: 23 January 2019].
- Neuman, W.L. 2011. *Social Research Methods*, Boston: Pearson Education Nicro: [online]. Available : <http://www.nicro.org.za/home/> [ Accessed 26 September 2019)
- Okumus, F. 2003. A Framework to implement Strategies in Organisations. *Management Decision*, 41(9):871-882.
- Paul, A. 2010. *The Implementation of the 1997 White Paper for Social Welfare with specific reference to children in conflict with the law: A case study of the Mangaung one stop child justice centre*. Master's Thesis. Cape Town: University of Western Cape.
- Pelkonen, A., Litardo, T.T. & Waitari, S.T. 2008. Assessing policy coordination capacity: higher education, science, and technology policies in Finland, *Science and Public Policy*, 35(4): 241-252
- Peters, B.G. 2001. *The politics of bureaucracy*. 5<sup>th</sup> edition. London: Routledge.
- Peters, B.G. 2015. Policy capacity in public administration. *Dynamics of Policy Capacity* (Special Issue). *Policy and Society*, 34 (3-4): 219-228.

Polzer, N.T. 2013. Policy Shifts in the South African Asylum System: *Evidence and Implications*, LHR/ACMS Report. Johannesburg: Wits University.

Rahman, M.M. 2012. Guided Ownership Revisited: An agenda for Policy Making in Bangladesh. *Journal of Public Administration and Policy Research*, 4(4): 84-92.

*Refugee rights booklet*. N.D. 3<sup>rd</sup> edition. Cape Town: University of Cape Town [online]. Available at: [https://www.refugeerights.uct.ac.za/.../refugee/.../Refugee\\_Rights\\_Unit](https://www.refugeerights.uct.ac.za/.../refugee/.../Refugee_Rights_Unit). [Accessed on 18 September 2018].

Rein, M. & Rabinowitz, F.F. 1978. *Implementation: A theoretical perspective*. In American politics and public policy. Edited by Durham, W.D. & Weinberg, M.W. Cambridge: MIT.

Republic of South Africa. 1995. *Aliens Control Act 76 of 1995*. Pretoria: Government Printers

Republic of South Africa. 1996. *The Constitution of the Republic of South Africa Act 108 of 1996*. Pretoria. Government Printers.

Republic of South Africa. 1997. *Immigration Green Paper*. Pretoria. Government Printers.

Republic of South Africa. 1998. *The Refugees Act 130 of 1998*. Pretoria: Government Printers.

Republic of South Africa. 1998. *The Refugees White Paper*. Pretoria: Government Printers

Republic of South Africa. 1999. *White Paper on International Migration Policy*. Pretoria: Government printers.

Republic of South Africa. 2000. *Promotion of Administrative Justice Act 3 of 2000*. Pretoria: Government Printers

Republic of South Africa. 2002. *Immigration Act 13 of 2002*. Pretoria: Government Printers.

Republic of South Africa. 2007. *Immigration Act 3 of 2007*. Pretoria: Government Printers

Republic of South Africa. 2008. *Refugees Amendment Act No 33*. Pretoria: Government Printers.

The Republic of South Africa. 2011. *The Refugees Amendment Act No 12*. Pretoria: Government Printers.

Republic of South Africa. 2011. *Immigration Act 13 of 2011*. Pretoria: Government Printers

Republic of South Africa. 2015. *The Draft Refugees Amendment Bill*. Pretoria: Government Printers.

Republic of South Africa. 2017. *White Paper on International Migration policy*. Pretoria: Government printers.

Rossouw, D. 2003. *Intellectual Tools: Skills for Human Sciences*. Pretoria: Van Schaik Publishers.



- Sabatier, P. & Mazmanian, D. 1980. The implementation of public policy: a framework of analysis. *Policy Studies Journal*, 8 (4): 538-560
- Segatti, A. & Landau, L.B. Eds. 2011. *Contemporary migration to South Africa: A Regional Development Issues*. Washington, DC: Agence Française de Développement and the World Bank.
- Segatti, A. 2011. Reforming South African immigration policy in the post-apartheid period (1990-2010). In Segatti, A. & Landau, L.B., eds. *Migration to South Africa: A regional development issue*. Washington, DC: Agence Française de Développement and the World Bank.
- SIHMA. 2014. *Migration Profile: South Africa* [online]. Available at : [http://sihma.org.za/wp-content/Migration-Profile\\_South\\_Africa.pdf](http://sihma.org.za/wp-content/Migration-Profile_South_Africa.pdf) [25 January 2019].
- Skok, J.E. 1995. Policy Implementation Process. *Policy Sciences*, 4(2):197-209.
- Statistic South Africa. 2019. *Tourism and Migration (Statistical Release –P0351)*. Pretoria: Stats SA
- Tebele, M.M. 2016. *Problems and challenges related to public policy implementation within the South African democratic dispensation: A theoretical exploration*. Master's Thesis. Potchefstroom: North West University.
- UNHCR. 2011. *Handbook and Guidelines on Procedures and criteria for determining Refugee Status - under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*. Geneva: The UN Refugee Agency.
- UNHCR. 2013. *Global Trends 2012: Displacement: The New 21<sup>st</sup> Century Challenge* [online]. Available at [http://www.unhcr.org/globaltrends/july2018/unhcr%20trends%2020212\\_v08\\_web.pdf](http://www.unhcr.org/globaltrends/july2018/unhcr%20trends%2020212_v08_web.pdf)
- Vigneswaran, D. 2008. Enduring territoriality: South African immigration control. *Political Geography*, 27(7):783-801.
- Weible, C.M. 2014. Introducing the scope and focus of policy process research and theory. In Sabatier, P.A. & Weible, C.M., eds. *Theories of the policy process*. Colorado: Westview Press.
- Welman, C., Kruger, F. & Mitchel, B. 2009. *Research Methodology*. 3<sup>rd</sup> edition. Oxford: Oxford University Press
- World Bank. 1997. *The State in a Changing World: World Development Report 1997*. Washington, DC: World Bank.



## **Annexure A: Consent form**

**TITLE: APPLYING THE 7-C PROTOCOL TO ASSESS THE IMPLEMENTATION OF IMMIGRATION POLICIES IN THE DEPARTMENT OF HOME AFFAIRS: A CASE STUDY.**

**REFERENCE: 7995**

**PRINCIPAL INVESTIGATOR: JOSEPH SANNA SKHOSANA**

**ADDRESS:**

School of Public Leadership

Bellville Park Campus

Carl Cronje Drive/Rylaan

Bellville

7535

**CONTACT NUMBER: 063 681 9503, 083 206 4539**

My name is Joseph Skhosana, a student from the School of Public Leadership at Stellenbosch University. I would like to invite you to participate in this research project that aims to assess the implementation of immigration policies at the DHA's Immigration Services by applying the 7-C Protocol.

Please take some time to read the information presented here, which will explain the details of this project and contact me if you require further explanation or clarification of any aspect of the research. Also, your participation is entirely voluntary and you are free to decline to participate. If you say no, this will not affect you negatively in any way whatsoever. You are also free to withdraw from the research at any point, even if you agree to take part.

This research has been approved by the Research Ethics Committee (REC): Humanities at Stellenbosch University and will be conducted according to accepted and applicable national and international ethical guidelines.

## **Background to the study**

The research will apply the 7-C Protocol to assess the implementation of immigration policies at the Department of Home Affairs' Immigration Services. Although adequate policies on immigration exists, serious challenges persist regarding implementation as the exact causes of implementation challenges are unknown. Therefore, the 7-C Protocol will be used to attempt to answer the research question: Are immigration policies implemented as planned? The 7-C Protocol variables are as follows: Content, Context, Commitment, Capacity, Clients/coalitions, Communication and Coordination.

You have been specifically selected to participate in this research because of your knowledge and insights in the implementation of immigration policies.

## **Procedure**

You are expected to complete the research questionnaire and research interview questions (interviews will only be conducted with managers). The research questions are developed within the framework of Stellenbosch University's ethics policy. Data gathered through interviews will be recorded in order to enable analysis of the findings a later stage.

## **Confidentiality**

Your personal information, identity and responses will be protected and it will not be disclosed to third parties. You are also allowed to remain anonymous.

## **Financial implications**

You will not be paid to take part in this research.

## **Declaration by participants**

By signing below, I.....agree to take part in a research titled:

**Applying the 7-C Protocol to assess the implementation of immigration policies in the Department of Home Affairs: A case study.**

I also declare that:

- I have read this information and consent form and it is written in a language I understand.
- I had a chance to ask questions and all my questions were adequately answered.
- I understand that taking part in this research is voluntary and I have not been pressurised or coerced to take part.
- I may choose to discontinue at any time and will not be penalised or prejudiced in any way.
- I may be asked to discontinue if the researcher feels it is in my best interest, or if I do not follow the research plan, as agreed to
- I have received a signed duplicate copy of this consent form for my records.

Signed at \_\_\_\_\_ On \_\_\_\_\_ 2018

\_\_\_\_\_

Signature of participant

**Declaration by researcher**

I Joseph S Skhosana declare that:

- I explained the information in this document to \_\_\_\_\_
- I encouraged him/her to ask questions and took adequate time to answer them.
- I am satisfied that he/she adequately understands all aspects of the research as discussed above
- I did/ did not use an interpreter.

Signed at \_\_\_\_\_ on \_\_\_\_\_ 2018

\_\_\_\_\_

Signature researcher

## **Annexure B: Research Questionnaire**

**TITLE: APPLYING THE 7-C PROTOCOL TO ASSESS THE IMPLEMENTATION OF IMMIGRATION POLICIES IN THE DEPARTMENT OF HOME AFFAIRS: A CASE STUDY**

Joseph Skhosana

063 681 9503

083 206 4539

[20640390@sun.ac.za](mailto:20640390@sun.ac.za)

**REFERENCE: 7995**

NOVEMBER 2018

### **General:**

This research questionnaire has been developed for the purposes of collecting data from participants at the Department of Home Affairs' Immigration Services officials regarding the processes of implementing immigration policies. This research makes use of Cloete's 7-C Protocol instrument to attempt to answer the research question: Are immigration policies implemented as planned?

The 7-C Protocol variables are as follows:

- Content,
- Context
- Commitment
- Capacity
- Clients/coalitions
- Communication
- Coordination.

Participants are allowed to remain anonymous. Strict confidentiality over their identity will be exercised and it will not be disclosed to any third parties.

Name of participant/anonymous.....

Designation .....

Date of Completion: .....

## **7-C PROTOCOL**

### **CONTENT (Protocol No. 1)**

The content of policy refers to the process of interaction between the setting of immigration policy goals/objectives and the actions geared to achieving them.

1. Share your understanding about the purpose and objectives of immigration policies.

---

---

---

---

---

---

2. What are the main challenges affecting the implementation of immigration policies?

---

---

---

---

---

---

3. How helpful are DHA Directives, circulars and Standard Operating Procedures in the implementing of immigration policies?

---

---

---

---

---

---

4. What is the DHA's role with respect to its membership with the various International Conventions on Refugees?

---

---

---

---

---

**CONTEXT (Protocol No.2)**

Context refers to how the DHA's Immigration Services is shaped by the larger context of social, economic, political and legal realities of the institutional corridors through which implementation must pass.

5. Please explain how immigration policies are aligned with social, political and economic factors in South Africa?

---

---

---

---

---

6. Please explain how the organisational structure and the values of DHA influence the implementation of the immigration policies?

---

---

---

---

---

### **COMMITMENT (Protocol No. 3)**

Commitment refers to how strong the commitment is from those responsible for implementing immigration policies, to successfully implement the policy.

7. How supportive are political executives in the implementation of immigration policies?

---

---

---

---

---

8. How supportive are your managers/ supervisors in the implementation? Please motivate your answer.

---

---

---

---

9. What can be done to improve staff commitment and their contributions to the implementation process?

---

---

---

---

### **CAPACITY (Protocol No. 4)**

What are the tangibles (human, financial, material, technological etc.) and intangible (motivation, commitment, willingness etc.) requirements needed to achieve immigration policy implementation?

10. What are qualities required from officials to implement immigration policies?

---

---

---

---

---

11. What are critical skills required for immigration officials in the implementation of immigration policies?

---

---

---

---

---

12. In your opinion are there capacity constraints within the Immigration Services affecting policy implementation? Please motivate your answer

---

---

---

---

---

#### **CLIENTS/COALITIONS (Protocol No. 5)**

Clients/coalitions refers to those stakeholders that actively support a particular immigration implementation process.

13. Who are the key coalition partners in the implementation of immigration policies?

---

---

---



-----  
-----  
14. How do client's/coalition partners influence the implementation of immigration policies?

-----  
-----  
-----  
-----  
-----

15. What challenges are you faced with in engaging your clients/coalition partner in immigration policy implementation?

-----  
-----  
-----  
-----  
-----

#### **COMMUNICATION (Protocol No. 6)**

Communication refers to how Immigration Services formally and informally communicate policy actions directions internally and outside the organisation.

16. What communication platforms do you use to communicate and receive policy implementation information?

-----  
-----  
-----  
-----

17. How effective is your communication with your supervisor/ manager regarding policy implementation?

---

---

---

---

### **COORDINATION (Protocol No. 7)**

Coordination refers to the intra and inter working relationship among departments and agencies to achieve the policy objectives.

18. What are key internal and external issues that must be addressed through coordination during policy implementation?

---

---

---

---

19. How can coordination strengthen partnership with coalition partners in the implementation of the immigration policy?

---

---

---

---

---

---

20. How effective is coordination between the DHA's Immigration Service and the coalition partners?

---

---

---

---

---

-----  
-----

THANK YOU FOR PARTICIPATING IN THIS RESEARCH PROJECT!!

## **Annexure C: Interview Schedule**

**TITLE: APPLYING THE 7-C PROTOCOL TO ASSESS THE IMPLEMENTATION OF IMMIGRATION POLICIES IN THE DEPARTMENT OF HOME AFFAIRS: A CASE STUDY**

Joseph Skhosana

063 681 9503

083 206 4539

[20640390@sun.ac.za](mailto:20640390@sun.ac.za)

**REFERENCE: 7995**

NOVEMBER 2018

### **General:**

This interview schedule has been developed for the purposes of collecting data from participants at the Department of Home Affairs' Immigration Services officials regarding the processes of implementing immigration policies. This research makes use of the 7-C Protocol instrument to attempt to answer the research question: Are immigration policies implemented as planned? The 7-C Protocol or variables are as follows:

- Content
- Context
- Commitment
- Capacity
- Clients/coalitions
- Communication
- Coordination

The interview schedule will be used as a framework for respondents. It is developed within the framework of Stellenbosch University's ethics policy. Participants are allowed to remain anonymous.

Name of Interviewee / anonymous.....

Designation .....

Date of Completion: .....

## **7-C PROTOCOL**

### **CONTENT (Protocol No. 1)**

The content of policy refers to the process of interaction between the setting of immigration policy goals/goal and the actions geared to achieving them.

1. In general terms can you identify the purpose and objectives of immigration policies.
2. What are the main challenges affecting the achievement of immigration objectives?
3. How helpful are the DHA' Directives, circulars and Standard Operating Procedures in guiding Immigration Officers during policy implementation and how do you ensure that they understand implementation?
4. What is the DHA's role with respect to its membership with the various International Conventions on Refugees and what is the level of understanding of Immigration Officials on this role?

### **CONTEXT (Protocol No.2)**

Context refers to how DHA's Immigration Services is shaped by the larger context of social, economic, political and legal realities of the institutional corridors through which implementation must pass

5. Please explain how immigration policies are aligned to the NDP in trying to address issues such social, economic and political factors in South Africa?
6. Please explain how the organisational structure influence the implementation of the immigration policies?

7. Are immigration policies correctly aligned with DHA's Strategic Plan?

### **COMMITMENT (Protocol No. 3)**

Commitment refers to how strong the commitment is from those responsible for implementing immigration policies, to successfully implement the policy.

8. How strong and supportive are political executives in the implementation of immigration policies?
9. What kind of support do you give to Immigration Officers during policy implementation?
10. What can be done to improve staff commitment?

### **CAPACITY (Protocol No. 4)**

Capacity refers to what are the tangibles (human, financial, material, technological etc.) and intangible (motivation, commitment, willingness etc.) requirements needed to achieve immigration policy implementation.

11. What are good qualities required from a person to work in Immigration Services and why?
12. Please state and motivate specific critical skills that are required?
13. Do the current Immigration Officers have those skills? Please motivate.
14. In your opinion are there capacity constraints affecting policy implementation?

### **CLIENTS/COALITION (Protocol No. 5)**

Clients/coalitions refers to those stakeholders that actively support a particular immigration implementation process.

15. Who are the key clients/coalition partners in the implementation of immigration policies?
16. How are clients/coalition partners influence the implementation of immigration policies?

17. What challenges do you face with your clients/coalition partner in immigration policy implementation?

#### **COMMUNICATION (Protocol No. 6)**

Communication refers to how Immigration Services formally and informally communicate policy actions and directions internally and outside the DHA.

18. How do you communicate policy issues internally and externally?
19. What communication platforms do you use to communicate policy implementation issues and processes?
20. How effective is communication between managers, Immigration Officers and coalition partners?

#### **COORDINATION (Protocol No. 7)**

Coordination refers to intra- and inter- working relationship among departments and agencies with interest to achieve immigration policy objectives.

21. What are the key issues that requires intra and inter coordination in the implementation of immigration policies?
22. How can coordination promote good working relationship during policy implementation?
23. How do you coordinate your working relationship with Immigration Officers during implementation?
24. Do you think coordination is effective in the implementation of immigration policies?

THANK YOU VERY MUCH FOR YOUR PARTICIPATION IN THIS RESEARCH PROJECT!!